

AMENDING THE DISASTER RELIEF ACT OF 1974

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
REGIONAL AND COMMUNITY DEVELOPMENT
OF THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
FIRST AND SECOND SESSIONS

ON

S. 1216

A BILL TO AMEND THE DISASTER RELIEF ACT OF 1974,
AS AMENDED

S. 1217

A BILL TO AMEND THE DISASTER RELIEF ACT OF 1974, AS
AMENDED, TO AUTHORIZE THE APPROPRIATION OF ADDI-
TIONAL SUMS TO CARRY OUT THE ACT, AND FOR OTHER
PURPOSES

S. 2250

A BILL TO AMEND THE DISASTER RELIEF ACT OF 1974, AND
FOR OTHER PURPOSES

JULY 16 AND 21, 1981; APRIL 20, 1982

SERIAL NO. 97-H36

Printed for the use of the Committee on Environment and Public Works



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1982

91-211 O

5321-24

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROBERT T. STAFFORD, Vermont, *Chairman*

HOWARD H. BAKER, Jr., Tennessee

PETE V. DOMENICI, New Mexico

JOHN H. CHAFEE, Rhode Island

ALAN K. SIMPSON, Wyoming

JAMES ABDNOR, South Dakota

STEVE SYMMS, Idaho

SLADE GORTON, Washington

FRANK H. MURKOWSKI, Alaska

JENNINGS RANDOLPH, West Virginia

LLOYD BENTSEN, Texas

QUENTIN N. BURDICK, North Dakota

GARY HART, Colorado

DANIEL PATRICK MOYNIHAN, New York

GEORGE J. MITCHELL, Maine

MAX BAUCUS, Montana

BAILEY GUARD, *Staff Director*

JOHN W. YAGO, Jr., *Minority Staff Director*

SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT

FRANK H. MURKOWSKI, *Chairman*

HOWARD H. BAKER, Jr., Tennessee

PETE V. DOMENICI, New Mexico

JOHN H. CHAFEE, Rhode Island

QUENTIN N. BURDICK, North Dakota

LLOYD BENTSEN, Texas

GEORGE J. MITCHELL, Maine

(II)

CONTENTS

JULY 16, 1981

Murkowski, Hon. Frank H., U.S. Senator from the State of Alaska, opening statement of	Page 1
---	-----------

WITNESSES

Giuffrida, Hon. Louis O., Director, Federal Emergency Management Agency, accompanied by Tom Casey, Acting Associate Director, State and local programs and support, and George Jett, General Counsel, Federal Emergency Management Agency	2
---	---

JULY 21, 1981 (p. 53)

Murkowski, Hon. Frank H., U.S. Senator from the State of Alaska, opening statement of	53
---	----

WITNESSES

Buntin, Wilbur R., executive director, Kentucky disaster and emergency services, Frankfort, Ky., president, National Emergency Management Association	79
Prepared statement	122
Cady, Ms. Susan, Lehigh University, Bethlehem, Pa., on behalf of American Library Association	88
Eschwege, Henry, Director, Community and Economic Development Division, General Accounting Office, accompanied by Ronnie Wood, group director, and Ronald Morgan, senior evaluator	54
Prepared statement	96
Sande, William J., vice president, American Red Cross, accompanied by Robert D. Vessey, national director, Red Cross disaster services	84
Prepared statement	127
Wilkerson, Robert S., director, Division of Public Safety Planning and Assistance for the State of Florida, on behalf of Hon. Bob Graham, Governor, State of Florida and the National Governors Association	71
Prepared statement	112

ADDITIONAL MATERIAL

Bills, reprints of:	
S. 1216	48
S. 1217	50
Los Angeles, county of, memorandum from	94
Statements:	
Church World Service	178
Holy Cross Hospital, San Fernando, Calif.	181
National Association of Counties	139
States of:	
California	147
Illinois	150
Iowa	152
Louisiana	157
Maine	159

IV

Statements—Continued States of—Continued

New York	161
New Mexico	162
Virginia	165
Washington	167
Wisconsin	169

APRIL 20, 1982 (p. 191)

Murkowski, Hon. Frank H., U.S. Senator from the State of Alaska, opening statement of	191
---	-----

WITNESSES

Dodge, Lowell, Associate Director, General Accounting Office, accompanied by Ron Wood and John Pennington	214
Prepared statement	288
Jones, Dr. Nolan, Staff Director, Committee on Criminal Justice and Public Protection, National Governors Association, Washington, D.C.	218
Prepared statement	298
Comments	354
Thomas, Lee M., Associate Director, Federal Emergency Management Agency, accompanied by Craig Annear, Associate General Counsel	192
Prepared statement	225
Comprehensive comments	240
Wilkerson, Robert S., Florida Bureau of Disaster Preparedness, Tallahassee, Fla., on behalf of the National Emergency Management Association	220
Prepared statement	321

ADDITIONAL MATERIAL

S. 2250, reprint of	329
Statements:	
American Red Cross	387
National Association of Counties	325
States of:	
Alaska	317
Arizona	363
California	366
Colorado	357
Georgia	316
Hawaii	359
Idaho	315
Kentucky	374
Massachusetts	356
Mississippi	320
Jackson, Miss., city of	385
New Mexico	311
Oklahoma	319
Pennsylvania	361
Virginia	313
Washington	305
Wisconsin	380
Washington State Association of County Engineers	390

AMENDING THE DISASTER RELIEF ACT OF 1974

THURSDAY, JULY 16, 1981

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT,
Washington, D.C.

The subcommittee met at 2:05 p.m., in room 4200, Dirksen Senate Office Building, Hon. Frank H. Murkowski (chairman) presiding.

Present: Senator Murkowski.

OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. We will call the meeting of the Subcommittee on Regional and Community Development to order. The discussion today will be the Disaster Relief Act.

This afternoon, we begin oversight and reauthorization hearings on the Disaster Relief Act of 1974. The current authorization for appropriations will expire at the close of this fiscal year. On May 15, the committee reported a bill, S. 1212, to extend this authorization for 1 year, through September 30, 1982.

These hearings will address the substantive provisions of the act and a number of suggested amendments recommended by the administration and others. The hearing today and the hearing that will be held next week are intended to provide the subcommittee with an overview of the issues pertaining to reauthorization of the Disaster Relief Act. My State of Alaska has had first-hand experience with the Disaster Relief Act during the "Earthquake of 1964" and the "Fairbanks Flood of 1967." Those were major natural disasters and the people impacted by the natural disasters benefited from the Federal and State programs for disaster relief.

I have a particular concern that the Disaster Relief Act has been utilized in the past administration for purposes far beyond what was originally envisioned. The current act provides for Federal assistance whenever the President declares an emergency regardless of the cause. I am concerned about possible political abuses of the program administered by the Federal Emergency Management Agency. As allowed by current law, Federal funds could be spent in economic crisis or after civil disturbances. I do not think these may have been originally considered disasters by Congress.

Legislative proposals have been offered to mandate a local cost-sharing provision. In addition, the subcommittee will be gathering testimony on such issues as whether local public buildings should be restored to the standards that existed prior to disaster or to

meet new public access standards adopted after construction of the public facilities. These are all issues I hope the witnesses will provide comment and which the subcommittee is concerned.

The focus of the subcommittee hearing is on the legislative proposals that have been offered by the administration for the reauthorization of the Disaster Relief Act. I, too, may have a bill to introduce as a result of what is learned about this matter. There are a number of specific issues that I will be looking into when reauthorization of the act is considered. Those include, but are not limited to:

Should the Federal and local cost sharing be mandated in the law? If so, what is the proper percentage?

There is a necessary role of the Committee on the Environment and Public Works in supervising the expenditure of funds under the Disaster Relief Act. That role needs better definition.

The President and the Federal Emergency Management Agency have no restrictions on what funds can be allocated to take care of a national disaster or national emergency. Should we consider such a proposal?

What is disaster? Traditionally, the act has been used for natural disasters, but in the recent years the Disaster Relief Act has been used for other than natural disasters.

It appears that the Federal Emergency Management Agency needs better direction in defining their role in national emergencies and disasters. I will be interested in receiving comments on how it can be improved.

I am very glad to welcome to the subcommittee today the Honorable Louis Giuffrida, Director of the Federal Emergency Management Agency. I understand that he will be accompanied by Mr. Tom Case, Associate Director of FEMA with specific responsibilities for disaster relief.

Mr. Giuffrida, we will be particularly interested in your testimony on S. 1216 and S. 1217, two administration bills pending before the committee. However, I want to emphasize that we will be happy to have any comments or suggestions you wish to submit.

I might add, on Tuesday, July 21, the subcommittee will hear testimony from the National Governors Association, the National Association of Counties, the National Emergency Management Agencies, and the National Red Cross, among others.

With this preliminary statement, I welcome you gentlemen and invite you to proceed with your statement.

STATEMENT OF HON. LOUIS O. GIUFFRIDA, DIRECTOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, ACCOMPANIED BY TOM CASEY, ACTING ASSOCIATE DIRECTOR, STATE AND LOCAL PROGRAMS AND SUPPORT, AND GEORGE JETT, GENERAL COUNSEL, FEDERAL EMERGENCY MANAGEMENT AGENCY

Mr. GIUFFRIDA. Thank you, Mr. Chairman. For the record, my name is Louis Giuffrida. With your indulgence, I would like to make a prepared statement and then be prepared to answer questions. As you have already indicated, I am the new Director of the Federal Emergency Management Agency, and I am happy to be here to start my testimonial series this afternoon.

FEMA was created to improve capabilities for the management of and response to civil emergencies of all types. FEMA is responsible for emergency-related activities embracing the full spectrum of mitigation, preparedness, response, and recovery.

Direction of the program authorized by the Disaster Relief Act of 1974 is one of the Agency's most important and visible programs. Work under this act is being accomplished virtually every day. In my statement, I will highlight some aspects of this act, recent activity in disaster management and coordination, and I will conclude with the administration's proposed amendments to the Disaster Relief Act.

The disaster relief program is designed to supplement the efforts and available resources of State and local governments and voluntary relief organizations. The President's declaration of a "major disaster" or an "emergency" authorizes Federal aid under the act. States and their political subdivisions will retain the primary authority and responsibility for disaster relief and recovery assistance. That means they have primary responsibility for taking immediate steps to warn and evacuate citizens, alleviating suffering, and protecting life and property.

If the situation is beyond the capabilities of State and local governments, the Governor may request that the President declare the affected area a "major disaster" or "emergency," as defined in the act.

Thus, the determination of what constitutes a disaster lies in the decisions of our highest elected officials and allows consideration of all major and unique elements of the situation. Other major components of this law include the provision to the Executive of broad authority to coordinate relief and recovery efforts of all Federal agencies and the involved State and local governments and voluntary agencies. The act also triggers other Federal disaster assistance programs.

Once a major disaster or emergency is declared, an officer is appointed to coordinate the administration of relief activities. This individual represents the President and is appropriately titled the Federal Coordinating Officer, or FCO. The FCO works to provide comprehensive service, to reduce response time, and to eliminate duplication. The FCO coordinates all relief efforts for declared major disasters or emergencies, including those authorized by separate statutes and that provided by other Federal agencies. The FCO also assists in the coordination of relief efforts of volunteer organizations.

Shortly after the Presidential declaration, the FCO normally establishes a field office and one or more assistance centers in the disaster area. At these disaster assistance centers, victims can meet with Federal, State, local, and voluntary relief organization representatives to receive advice and assistance. At the disaster field office, the FCO, as the President's representative, monitors the relief and recovery efforts, performs the coordinating role, and reports progress to the news media as well as the highest levels of government. He is held accountable for the Federal Government's agencies.

The direct disaster assistance provided by FEMA falls into two broad categories: Aid to the State and local governments, called

public assistance; and aid for the disaster victims and their families, called individual assistance. Public assistance accounts for between 50 and 70 percent of disaster relief funds and individual assistance comprises between 30 and 50 percent.

Under the public assistance program, soon after a disaster declaration, State and local officials are briefed on the types of assistance available and the application procedure. Eligible public assistance applicants are: States, their political subdivisions; Indian tribes; Alaska Native villages; and certain private, nonprofit organizations.

Detailed inspections are made, and damage survey reports are prepared by Federal and State or local engineers. These reports which document damage and recommend the eligible restorative work and eligible costs, are the basis for the application for assistance. Grants are made for emergency protective measures, debris clearance, and the repair and restoration of damaged public and certain private, nonprofit facilities. Work is normally accomplished by the affected State or local government with their own forces or under contract.

In addition to the public assistance indicated above, the Disaster Relief Act provides a wide range of assistance for individuals.

Two of the more active individual assistance programs are the temporary housing and individual and family grant programs. Temporary housing is provided to displaced disaster victims through the use of one of the following: privately owned housing units available on the open market; Government-owned or assisted housing units; FEMA-owned mobile homes; or limited repairs on owner-occupied residences. The individual and family grant program may provide grants of up to \$5,000 to meet serious unmet disaster-related needs or necessary expenses.

Additional forms of individual assistance under the act include: disaster unemployment and job placement assistance; mortgage and rental payment assistance; legal services to low-income families; and crisis counseling and referrals to appropriate mental health agencies to relieve disaster-related mental health problems.

The Disaster Relief Act of 1974—Public Law 93-288—provided a one-time nonmatching \$250,000 preparedness development grant to each State to prepare a State emergency plan. In addition, the 1974 act continued the 1970 authorization for the annual \$25,000 preparedness improvement grants—with matching funds from States—to maintain, expand, and improve State emergency plans.

All States utilized the preparedness development grant to prepare State emergency plans and 148 preparedness improvement grants have been awarded. For the improvement grants, a total of \$3.6 million has been obligated by the Federal Government with \$4 million contributed by the States.

The disaster preparedness assistance program meets special needs. It provides financial assistance to eligible applicants in priority areas for the development of preparedness plans for severe earthquakes and hurricanes in high-risk, high-populated areas. Priorities are based on level of risk, and local and State interest and commitment to the program.

Typically after a response effort has ended, the national office or the FCO conducts a review—with the aim of improving the efficien-

cy and effectiveness of future disaster relief and recovery operations. These after action reports plus other analysis of the work we are doing in our constant review of the operating policies, have led to procedural changes, and have pointed out the need for specific legislative changes. Four of these have been submitted to the Congress by this administration. I would like to summarize these briefly:

First, in S. 1217, a provision for public assistance projects, that work be cost-shared on a ratio of 75 percent Federal, 25 percent State and/or local. In cases where an eligible applicant is financially unable to pay its share of the 25 percent non-FEMA share, an advance of funds may be made to the State for such purpose to be repaid to the United States by the State or such applicant. The appropriations Committees have specifically asked that our authorization Committees study this issue.

This initiative will formalize a cost sharing relationship between the Federal and State and local governments that now exists under the law. It will secure formally the State and local commitment. While the law already calls for such a commitment, it has always been difficult to obtain and document. It will also provide FEMA the authority for advancing the 25 percent State and local share with Federal funds, should the state be unable to meet this requirement. This same "advance" provision would allow States to follow their normal budget processes in order to repay the advance. And finally, it would carry out congressional intent as described in our fiscal years 1981 and 1982 appropriation language.

Our second legislative proposal is an amendment to section 404 of the act to eliminate the entitlement of the 1-year rent-free period for temporary housing. It appears in S. 1217.

This change will parallel assistance provided through insurance policies where disaster victims are provided a payment only for housing expenses which exceed predisaster costs. Temporary housing assistance will be based on the applicant's ability to pay for any increase in housing expenses. It is expected that this change will eliminate unnecessary assistance which may have temporarily provided a false view of financial responsibilities for the disaster victim. It will also provide a cost savings to the Federal Government.

S. 1216 is a proposed change which would serve to solidify the ability of the Federal Government to recover Federal funds where disaster situations have been caused or aggravated by attributable entities.

The fourth recommendation, which is included in S. 1217, is a 3-year reauthorization for this legislation.

Finally, sir, I want to take just a moment to cover FEMA responsibilities under Executive Order 12148. Under both the Executive order and under the Disaster Relief Act, FEMA has a responsibility to move quickly to a disaster area or to other extraordinary situations which, in the judgment of the FEMA Director, may warrant Federal involvement. He may direct a Federal response team to the affected area to supplement regional response capabilities. The purpose and obligation of these teams is fourfold:

First, to assess the situation and possible impacts.

Second, to be prepared to respond quickly and adequately should a Presidential declaration take place.

Third, to make sure that State and local programs, and other Federal agency programs and resources are used where applicable before a declaration is forthcoming. Further, that these programs are coordinated.

And fourth, to fulfill the mandate of our Executive order to " * * * coordinate all civil defense and civil emergency planning, management, mitigation, and assistance functions of executive agencies."

Mr. Chairman, this concludes my statement on the disaster relief program as established under the act. With me today is the acting associate director of State and local programs and support, Mr. Thomas R. Casey. We will be happy to expand on these remarks and answer your questions.

Senator MURKOWSKI. Thank you very much, Mr. Giuffrida, for that very complete and concise presentation. I do have a number of questions.

Your reference to attributable entities, I assume some lawyer wrote that for you, do you mean fraud? On page 7, " * * * aggravated by attributable entities." My question is: What does it mean?

Mr. JETT. It is a summary statement which might identify parties that we might find at one time or another aggravated or led to a situation.

Senator MURKOWSKI. So it would be fraud, in effect?

Mr. JETT. I wouldn't think of a fraud right offhand.

Senator MURKOWSKI. I am looking for the substance on which basis the Government could come back to a responsible party for some type of wrongdoing which would lead the Government to recover.

Mr. CASEY. I think we can cite a specific example, if I might, and that was a chlorine barge incident in the Mississippi River where the Federal Government moved in to protect the health and safety of the people in the area and then the Department of Justice brought legal action against the owners of the barge and recovered the costs involved in the recovery efforts.

Senator MURKOWSKI. So it was an accident, in effect.

Mr. GIUFFRIDA. It was not deliberate.

Senator MURKOWSKI. What has been the relationship between the committee and FEMA to date, to your knowledge? Has there been previous oversight hearings?

Mr. GIUFFRIDA. With your approval, I am going to have to defer because I am not familiar enough with the background.

Senator MURKOWSKI. We share that unfamiliarity. We are both in the learning process.

Mr. CASEY. Yes, there have been previous oversight hearings and we have had many many informal meetings with the staff of the committee, Senator. In my estimation we have a very good relationship.

Senator MURKOWSKI. But the relationship is somewhat unique in that, as I understand it, once the President declares a national disaster, why, then, you have the responsibility of moving in and going to the aid of whomever you are directed. Then the responsibility of FEMA to this committee, does it basically in your view

end at that point? I am trying to establish this relationship because it seems that I have not been able to find out just too much about how we communicate and how we establish continuing rapport. And there was some questions asked in a previous Veterans hearing and there didn't seem to be too much—and it was mutually uncertain—knowledge of one another.

I am wondering, since we have your budget and you expend our money, it would seem we have a less close relationship to the committee members or some of them.

Mr. GIUFFRIDA. The intent of the Congress is what FEMA is carrying out with its responsibility; that is, to relieve suffering, to prevent damage to property.

What I hear you asking is, is there some kind of feedback mechanism to let you know how we are doing in carrying out your intent. Is that the essence?

Senator MURKOWSKI. Although I believe that the intent is under the law that the President directs you to act, but I just wonder, what is your check and balance? To my knowledge it is not this committee and I think in this hearing some of the areas we will attempt to bring out, because if there is no responsibility, why we are faced with a situation where the authorization has expired, we are going to renew it or move or we are going to do something with it, and my question is one of developing information so that we will have a better idea just who you feel you report to.

Mr. JETT. May I make a comment? When the Federal Emergency Management Agency was put together, we actually brought five units that had previously been assigned to other departments into one unit reporting directly to the President. When we brought together those units, we found there were four authorizing committees involved in the programs that we brought together. None of our committees oversee the total FEMA program, but Environment and Public Works has very very important oversight over our programs.

The principal program that you have oversight is the disaster relief program and we have annual oversight hearings before your committee on this program. We also appear before your committee with regard to the Superfund—you have management for that. And we have a functional responsibility assigned to the President on Superfund. And so we appear before your committee for that subject as well. We also have the responsibility for offsite emergency preparedness around nuclear powerplants, of which the full committee has oversight. We appeared twice this spring before this committee on the offsite radiological planning.

So, we do have quite a few responsibilities to this committee with regard to our report responsibilities.

We have annual reports that we are required to provide you and I believe those are provided on a timely basis. And I believe we just worked out with the committee a reporting responsibility on a monthly basis to report on the status of our efforts on the nuclear offsite planning.

So, we do have quite a lot of liaison.

Senator MURKOWSKI. Thank you. I think that helps explain the basis of the relationship.

Let's talk a little bit about your budget. It is my understanding that the fiscal year 1982 budget as requested is \$369 million and then I have before me back to 1974 appropriations for each fiscal year since the enactment of the act in 1974.

Tell us a little bit about how you arrive at a budget request knowing the difficulty in forecasting disasters. I see one year where we probably averaged, since 1974, about \$400 million and then in 1980 it was over \$1 billion and then in 1981 it was \$358 million. I recognize these are not true figures because they probably carry over from year to year.

Mr. JETT. They do carry over.

Mr. CASEY. Senator, in the early years of the program, for whatever reason, we would have a regular appropriation and then would have to request a supplemental because we did not have enough money. Since the establishment in Congress of the new budget procedure, obtaining supplementals became much more difficult. I guess since it was very easy to obtain supplemental appropriations, we would usually come in for a minimal amount and then rely on getting a supplemental if we did have a heavy year on disasters.

Since the Committee on the Budget and the new procedures in Congress were initiated, we have been more realistic in our request for appropriations, averaging \$360 million, which I think is an appropriate figure.

We still cannot anticipate those big ones, such as happened in 1980, Hurricane Frederick, Mount St. Helens and the Cuban influx. Those were very serious disasters or emergencies, and very expensive and we had to come in for a supplemental on those.

But taking an average since 1974, to date but eliminating the peak in 1980, we are averaging from \$350 to \$400 million a year.

Senator MURKOWSKI. You mentioned the Cuban refugee situation and I think there has been a good deal of concern expressed in some areas as to the appropriateness of that particular declaration of emergency. We seem to have a very broad interpretation of national emergency, and I think it is in the scope of the committee to address this area and I intend to bring this up to the full committee with regard to the appropriateness of setting some guidelines in regard to the qualification of national emergencies.

I would appreciate any remarks that either of you would make to the broad area that we seem to have involved in this program. Certainly the disaster such as Mount St. Helens or a hurricane are natural disasters in the true sense of the word. The Cuban refugee situation is obviously something else and I assume it is questionable to wonder just what the intent of those that authorized this legislation was and whether or not there is a need for some guidelines to be established.

Mr. GIUFFRIDA. I would like to make a brief comment on one portion of that and then defer to the staff.

I would suggest that it is important to remember in considering the Cuban refugees that the intent of the response, as I understand it, and this is from a study of the situation, not from participation in it, was to alleviate the very real suffering of U.S. citizens in places like Key West from the influx that totally inundated such

things as waste disposal systems. Residents were unable to use their bathrooms for 2 days at a time.

Senator MURKOWSKI. How much was expended, do you recall, on the Cuban refugees obligation?

Mr. CASEY. We obligated approximately \$210 million under the program.

Senator MURKOWSKI. That is a pretty good chunk.

Mr. CASEY. I am corrected, Senator, \$204 million.

Senator MURKOWSKI. That is close enough, about half the budget went for the Cuban refugees.

Mr. CASEY. Our appropriation was \$1,063 million.

Senator MURKOWSKI. This was a carryover and the figures I have are not accurate in that sense.

Mr. CASEY. If I could, Senator, precedent for nonnatural disasters goes back very early in the program, to the days we were operating under Public Law 81-875. When I talked about the chlorine barge incident, that was a man-made incident.

Senator MURKOWSKI. What was that?

Mr. CASEY. The chlorine barge in the Mississippi River. We were concerned that the tanks were rusting out and, if the chlorine came in contact with the water, it would produce chlorine gas and be a threat to the residents along the banks of the river. And I can go on under this current legislation, the fire in Chelsea, Mass.

But here again in the Cuban situation, our job was to relieve the hardship and suffering of the people in southern Florida.

Senator MURKOWSKI. The Cuban refugee situation, I don't assume that you had anything but a firm dictate. You didn't make the decision whether it would go or not go?

Mr. CASEY. No, sir.

Senator MURKOWSKI. Your agency made that decision?

Mr. CASEY. Our agency made a recommendation; yes.

Senator MURKOWSKI. And the recommendation that was made by your agency, then, I assume was to take disaster relief funds and put it in the Cuban refugee effort?

Mr. CASEY. With all due respect, the recommendation was made for the President to declare an emergency to allow FEMA to take action to relieve the hardship and suffering of the people of southern Florida. The action necessary to be taken was to move the Cubans into a stable area and away from southern Florida where they were impacting on the infrastructure.

Senator MURKOWSKI. I was under the impression that the President first had to declare a national disaster. He declared the disaster, did he not, and directed the agency involvement at that point?

Mr. CASEY. Yes.

Senator MURKOWSKI. So what I am trying to clarify, did you have a choice in the matter?

Mr. CASEY. The agency; no. We are delegated the responsibility to administer assistance under the Disaster Relief Act and coordinate Federal response efforts.

Senator MURKOWSKI. You were directed by the Executive Office to do it?

Mr. CASEY. Exactly.

Senator MURKOWSKI. And my question again to you is: Do you feel there is any need to establish any guidelines whatsoever for

the general definition of what area should be included in disaster relief?

Mr. CASEY. As I testified at the budget hearings before this committee, I would urge that no restrictions be placed on the definition. I feel there is flexibility to cover any situation that we may run into that we cannot predict right now, Senator. At that time I mentioned there is a cause/effect relationship. Our job in carrying out the conditions of the law is to relieve hardship and suffering, the effect which could be caused by many different types of circumstances.

If there are limitations placed on what we can do, I feel that, sometime in the future, this may preclude our reacting to a situation which requires immediate action.

The Cuban refugee situation, if you could go back to that, unfortunately was a media event and it was perceived that the emergency declaration was made to take care of Cubans. The point that I have been trying to make is that it was declared to take care of the people of southern Florida.

Since I know there is some consideration about changing the definition of what constitutes, or what type of a situation constitutes a major disaster, I can draw an analogy between the Cuban influx and a natural disaster. The natural disaster I am thinking of was one of the last I was involved in before I moved back to Washington, and that was the Buffalo snow storm. In the Buffalo snow storm to relieve the hardship and suffering, we cleared the snow off the street; we moved the snow.

In Florida, we moved Cubans to a place where they would be in a stable environment and away from the impact on the infrastructure in southern Florida.

In order to get food to people stranded by the snow storm in Buffalo, we formed a 600-unit snowmobile fleet to deliver food to the people.

When the stores in Key West, Fla., ran out of food because of the influx of the Cubans, we contacted grocery chains and we had dozens of semis moving down Route 1 into Key West to restock the food stores.

We are concerned with effect. The cause will dictate the type of actions that we should take in order to alleviate the effect.

Senator MURKOWSKI. We seem to be going back to the Cuban refugee situation here.

Is there not a Refugee Relief Act in this country?

Mr. CASEY. Yes; there is.

Senator MURKOWSKI. Why wasn't funding requested under the authority of this act?

Mr. GIUFFRIDA. I think the point that Mr. Casey was trying to make, Senator, that irrespective of how that was perceived, the real intent of the disaster declaration there was not to address the need of the refugees who were coming ashore, but rather to alleviate the suffering.

Senator MURKOWSKI. Regardless, the refugees were the cause of the inconvenience for those that had to provide services for them and evidently we have disaster relief under the Refugee Relief Act, a program that theoretically is structured to respond to the cause of refugees and their relief, either way you want to put it.

My question: Would it not have been more appropriate for the Government to fund that program than take a disaster program and expand in the conception of the average personal interpretation of what disaster relief is?

What I am trying to get at is: Do we not have or should we not have terminology that at least to some extent encompasses what our intention is?

There is a great deal of controversy about the pros and cons of that particular action. Certainly once we accepted those few, we had an obligation to take care of them—it was a great inconvenience and great cost, but it was a great benefit to those people. But I, as chairman of the subcommittee, am obviously concerned with just how broad this thing should be. And it is evident from the testimony, at least at this time, that you gentlemen see no necessity of putting any framework around what disaster relief means.

Mr. JETT. Senator, may I just make a few comments. First, with regard to the Refugee Act and then with some broad remarks.

The Refugee Act had just been enacted at the time the situation occurred and it was considered as an alternative.

I think the point I would make is that before the President declares an emergency or a major disaster under the Disaster Relief Act, a very full and thorough review is made of other authorities and programs that might be activated to bring response to the situation at hand.

In this situation, the Refugee Act had just been enacted, no appropriations had been made for it. And if my memory serves me correctly, there was no administrative infrastructure under the Refugee Act.

So, the Disaster Relief Act seemed to provide the most viable means of addressing the emergency conditions facing southern Florida at the time.

There was also a problem that at that time the Refugee Act had certain definitions for persons coming into the country and certain limitations as to the numbers that can come in under those definite groups, and it had not been determined at that time by the administration as to how these Cubans coming into the country would be treated under those definitional terms.

So, we looked at that act very carefully and I think you make a very good point, we shouldn't turn quickly to the Disaster Relief Act any time the situation seems to get very difficult. I will assure you, we don't do that, and under the Cuban situation we did look very long at each of the several options that would be available short of a Presidential declaration.

Senator MURKOWSKI. Let me conclude this line by assuming from your comments to date that you have no suggestions for any parameters in the continuing authorization that we are discussing here.

Mr. GIUFFRIDA. We think that as it is worded now, Senator, it permits us the proper mechanism to carry out the intent of the act to relieve suffering.

Senator MURKOWSKI. So you would have to, within your directorship, have a broad expertise because tomorrow you might be considering the Medfly disaster in California.

Mr. GIUFFRIDA. We have been talking about Medflies at FEMA. The Department of Agriculture has already spent 50 percent in that Medfly problem for aerial spraying. Even though Governor Brown last night made a public statement, as of the time we came over here to meet you, no request for major disaster assistance had been forthcoming on the Medfly.

Senator MURKOWSKI. We understand, of course, that he has called for Federal assistance in fighting the Medfly.

Mr. GIUFFRIDA. He has not called for it, to my knowledge, Senator, other than to make a press statement, at the time we left the office about 12:30.

Mr. JETT. Federal assistance is being provided by the Department of Agriculture and I think we would also look to see if there were other programs.

Senator MURKOWSKI. Let's put it this way, if, hypothetically, he called it a national disaster and the President declared it one and acknowledged it, you people would then move in with your funds and your personnel and would you depend on someone's expertise or would you just basically make the money available to fight the problem?

Mr. CASEY. We would depend upon the expertise that is available in the Federal Government.

Senator MURKOWSKI. So I assume you would turn to the Department of Agriculture?

Mr. GIUFFRIDA. The Department of Agriculture and anyone else appropriate.

Senator MURKOWSKI. See what I am getting at? Is it really again a case of a national emergency under the broad interpretation or is it a program that can better be handled by the Department of Agriculture? Because, obviously, it is a very specialized situation that requires a good deal of particular background in what chemicals you use and what potential outfalls for the use of those various chemicals are.

It would seem that we have either the necessity of your group maintaining a high degree of expertise in many, many areas, perhaps a broadening amount, because I don't suppose you are prepared to deal with the Cuban refugees unless you all speak Spanish.

Mr. GIUFFRIDA. We are a coordinating agency. Our function is to know where everybody is and to coordinate to make sure that they are all working with maximum interface.

Senator MURKOWSKI. And you think you can do that better in this case than the Department of Agriculture with the Medfly?

Mr. GIUFFRIDA. There will be implications, transportation requirements, and a number of other requirements which fit in the traditional pattern of disaster relief coordination. Agriculture, for example, won't strip fruit.

Senator MURKOWSKI. They won't strip fruit?

Mr. GIUFFRIDA. They will provide other kinds of help. They will pay for the cost sharing for aerial spraying under the Federal Plant Pest Act; they pay 50 percent of the cost, but they don't go beyond that. They don't go around stripping the fruit, they don't take care of any of the other supplemental assistance that might

be required, or health protection requirements or population protection requirements.

Senator MURKOWSKI. In this case the population health requirements would mean, what, potential relocation on the basis of adding chemicals?

Mr. GIUFFRIDA. I am not a chemist, but I don't think that is chemically sound. They have been using that kind of chemical for a long time. There was some voluntary evacuation—a lot of things going on when this whole process first started.

The point I am trying to make is, if the Department of Agriculture simply does that 50 percent cost sharing, if there is any other involvement, and there probably would be, then it is FEMA's role to coordinate.

Mr. JETT. May I make some points which I think may get at something which you are concerned.

If there is a concern that once the President declares a disaster, all Federal expenditures from that point on are automatically FEMA's expenditures and therefore come out of the funds that this committee authorizes, that is not accurate. Actually, if the President declares a disaster or emergency and we take over the coordination role on his behalf, we look to the other Federal agencies to administer their programs under our oversight and to use their funds if funds and authority are available to respond to the situation.

I call to mind the Cuban situation quickly, but we can use Mount St. Helens. But in the Cuban situation, as each party came in to the response situation, the Department of Defense, Immigration and Naturalization Service, the Justice Department, as each party came in, we looked to that department first to see if they can handle it under their own authority and with their own resources.

We are not anxious to spend the funds you authorize.

Senator MURKOWSKI. When we were discussing the Cuban disaster relief, it was something that wasn't utilized in favor of this program. I think basically you got a trade-off.

In the case of social upheaval or a very, very large demonstration, such as the occurrence that happened in Los Angeles a number of years ago, Watts, is that in your area of potential activity?

Mr. GIUFFRIDA. Not the control of, but conceivably the human suffering that would be the consequence of the effects. People displaced need housing, food, counseling, health delivery services, the establishment of school facilities, and so on.

Senator MURKOWSKI. In this particular instance the National Guard was mobilized and tremendous Federal coordination along with the State of California and the city of Los Angeles went into that effort and it was done, I assume, without the coordination of this particular agency. It was done at the direction, I assume, of the State government and what they had to work with. But something like that is of such a broad scope, gentlemen, that your budget could be wiped out one night.

Mr. GIUFFRIDA. Our budget would not be used to fund the payment of the National Guard that were called to State active duty. The agreement between DOD and DOJ is the maintenance of law

and order and restoration of law and order; and that is appropriately theirs and not ours.

Senator MURKOWSKI. How about the relocation cost?

Mr. GIUFFRIDA. The relocation cost, you mean getting the people out of where the buildings were burning?

Senator MURKOWSKI. Finding another place for them and maintaining it.

Mr. GIUFFRIDA. That is part of what I ran through, assistance in the terms of temporary housing is within our jurisdiction. But they are the victims and we are victimless oriented. We share their grief and are concerned for social upheaval that caused Watts in the first place.

Having said that, and to specifically answer your question, yes, we would be involved in alleviating the suffering of the victims of the social upheaval and I think appropriately so to coordinate Red Cross, the Mennonites, Federal agencies—everybody that has a part to play in it. There needs to be one coordinator.

Senator MURKOWSKI. How many programs are you actively engaged in on an ongoing basis? I am sure you are committed to Mount St. Helens.

Mr. GIUFFRIDA. Mount St. Helens comes immediately to mind and about 6 or 8 others.

Senator MURKOWSKI. Can you give us some idea what they are?

Mr. CASEY. There could be upwards to 20. We can provide a list.

Senator MURKOWSKI. I would appreciate it if you would provide a list for the record. The record will be kept open 10 days. I think we would like to review that list and I would also be interested in knowing in your current fiscal 1982 request for \$369 million, how much of that will be utilized to carry your current list, whatever it might be, vis-a-vis how much you have open for unknown eventualities that may occur.

[The information requested follows:]

Q. What are FEMA's ongoing disasters and how much of your current budget request will be used in their support?

A. In response to your request for additional information on FEMA open disaster contracts, the following is submitted:

As of July 27, 1981, there were 166 open major disasters and 24 open emergencies. Of the open disasters, 37 still have outstanding financial requirements. The estimated remaining requirement for these active disasters is as follows:

<u>FEMA</u>	<u>State</u>	<u>Type</u>	<u>Amount</u>
556	Louisiana	Severe storms and flooding	350,000
561	Texas	Severe storms and flooding	50,000
571	New Mexico	Flooding	25,000
580	Texas	Severe storms, flooding and tornadoes	23,444
589	New Mexico	Severe storms, snowmelt and flooding	25,000
595	Texas	Severe storms & flash flooding	25,000
608	Connecticut	Tornado and severe storms	357,000
609	California	Earthquake	803,781
610	American Samoa	Flooding, mudslides and landslides	131,092
611	Trust Territories	Seawave action and flooding	1,314,568
613	Hawaii	Severe storms, high surf and flooding	214,000
615	California	Severe storms, flooding and mudslides	3,761,268
616	Louisiana	Severe storms and flooding	500,000
617	Arkansas	Severe storms and tornadoes	15,000
618	Mississippi	Storms, floods, mudslides and tornadoes	775,062
619	Alabama	Severe storms, tornadoes and flooding	1,048,479
620	Missouri	Severe storms and tornadoes	252,000
621	Michigan	Severe storms and tornadoes	783,000
623	Washington	Volcanic eruption	3,529,261
624	Idaho	Volcanic eruption	126,717
625	Nebraska	Severe storms and tornadoes	326,704
626	Wisconsin	Severe storms and flooding	211,250
627	Texas	Hurricane Allen	2,499,563
628	West Virginia	Severe storms and flooding	2,018,235
629	Pennsylvania	Severe storms and flooding	112,174
630	Ohio	Severe storms and flooding	111,000
631	Michigan	Severe storms and flooding	665,062
632	Texas	Tropical Storm Danielle	5,000
634	No. Marianas	Typhoon Dinah	138,000
635	California	Brush and timber fires	684,289
636	Kentucky	Sewer explosion	3,458,341
637	American Samoa	Typhoon Esau	35,000
638	Alabama	Tornado	42,746
639	Alabama	Severe storms and flooding	796,434
640	Montana	Severe storms and flooding	872,228
641	Pennsylvania	Severe storms and flooding	1,904,708

Total estimated remaining requirements \$28,240,406.

Three of the open emergencies have outstanding requirements; these are:

3080	New York	Chemical contamination	2,442,000
3082	Maine	Red Tide	100,000
3083	New Jersey	Drought/Water Shortage	201,940

Total estimated remaining requirement \$2,743, 0.

Total \$30,984,346

Senator MURKOWSKI. Do you feel that you would come into a coordination situation in the event of a nuclear accident?

Mr. GIUFFRIDA. Yes.

Senator MURKOWSKI. You indicated you had had some activity.

Mr. GIUFFRIDA. We have the responsibility for new powerplants. We have the responsibility to insure that there is a regional emergency plan that will safeguard the people in the vicinity of the plant in the event of an accident, and we are working very closely with NRC on time schedules.

The requirement is that FEMA has to evaluate and test the State or local emergency plan, but we don't have the authority to say to them, "Make a plan." NRC has the licensing authority not FEMA. NRC has decided that they can license or they are about to decide if they have not already done so, they can license powerplants without waiting for the plan.

Our responsibility does not extend to the low power testing, but to the plants online, full power. If there was an accident, something similar to TMI, yes, we would have the coordinating responsibility.

Senator MURKOWSKI. Who would have the overall coordinating responsibility if that situation would have gotten out of hand?

Mr. GIUFFRIDA. We would.

Senator MURKOWSKI. That is fine with me with the simple nomenclature associated with the specifics of nuclear coordination handling and so forth. The idea that the NRC would not have the overall coordinating responsibility in that type of an instance where special equipment, special materials, and special knowledge is required, is surprising.

Mr. GIUFFRIDA. Let me clarify that, if I may. NRC correctly has the responsibility onsite.

Senator MURKOWSKI. That is where the action would occur.

Mr. GIUFFRIDA. But the consequences would be offsite. NRC onsite; FEMA offsite is the way it is.

Mr. JETT. We have two memorandums of understanding in place with the NRC now with regard to offsite planning and offsite response. I think we can provide those to the committee for the record which might clarify the arrangements we have with NRC to make sure there is a Federal focal point in a response situation.

[The information referred to follows:]

MEMORANDUM OF UNDERSTANDING
BETWEEN NRC AND FEMA RELATING TO
RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

I. BACKGROUND AND PURPOSE

This Memorandum of Understanding establishes a framework of cooperation between the Federal Emergency Management Agency (FEMA) and the Nuclear Regulatory Commission (NRC) in radiological emergency response planning matters, so that their mutual efforts will be directed toward more effective plans and related preparedness measures at and in the vicinity of nuclear reactors, fuel cycle facilities which are subject to 10 CFR Part 50, Appendix E, and certain other fuel cycle and materials licensees which have potential for significant accidental offsite radiological releases. The memorandum is responsive to the President's decision of December 7, 1979, that FEMA will take the lead in offsite planning and response, his request that NRC assist FEMA in carrying out this role, and the NRC's continuing statutory responsibility for the radiological health and safety of the public.

A separate memorandum has been negotiated to cover NRC/FEMA cooperation and responsibilities in response to an actual emergency including public information activities. In addition, an agreement was also reached between the NRC and FEMA on September 11, 1979, that chairmanship of the Federal Interagency Central Coordinating Committee (now the Federal Radiological Preparedness Coordinating Committee) should be transferred from NRC to FEMA. This agreement was transmitted to other Federal agencies by a joint letter from the Chairman of the NRC and the Director of FEMA. The NRC and FEMA also agreed in principle on September 11, 1979, to the idea of joint participation in the review, assessment and concurrence with regard to State and local emergency response plans. On January 14, 1980, the two agencies entered into a "Memorandum of Understanding Between NRC and FEMA to Accomplish a Prompt Improvement In Radiological Emergency Preparedness" that was responsive to the President's December 7, 1979 statement and was a framework for implementing the September 11, 1979 agreement. According to that memorandum of understanding, FEMA coordinates all Federal planning and takes the lead for developing a program for assessing State and local emergency response plans in all elements of offsite radiological emergency planning, and for making findings and determinations as to the adequacy and capability of implementing State and local plans, and to make those findings and determinations available to NRC. The NRC reviews those FEMA findings and determinations for the purpose of making determinations on the overall state of emergency preparedness for issuance of licenses or shutdown of operating reactors. That arrangement makes the FEMA staff responsible for evaluating the adequacy of State and local plans and for assuring that the plans are capable of implementation on a continuing basis, and therefore substantially avoids duplicative efforts by NRC staff. This memorandum of understanding builds upon the relationship that has been developing between the two agencies and supersedes the January 14, 1980 memorandum.

II. AUTHORITIES AND RESPONSIBILITIES

FEMA - Executive Order 12148 charges the Director, FEMA, with establishing policy for and coordinating all civil emergency planning and assistance functions for Executive agencies (Section 2-101). It also provides that "The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness mitigation, response, and recovery programs." (Section 2-104).

On December 7, 1979, the President, in response to the recommendations of the Kemeny Commission on the accident at Three Mile Island, directed that FEMA assume lead responsibility for all offsite nuclear emergency planning and response.

Specifically, the FEMA responsibilities with respect to emergency preparedness as they relate to NRC are:

1. To take the lead in offsite emergency planning and review and assess State and local emergency plans for adequacy.
2. To review State and local emergency plans in those States affected by operating reactors (report submitted to the President in June 1980).
3. To complete, as soon as possible, the review of State and local emergency plans in those States affected by plants scheduled for operation in the near future.
4. To make findings and determinations as to whether State and local emergency plans are adequate and capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications and equipment adequacy). Notwithstanding the procedures which may be set forth in 44 CFR 350 for requesting and reaching a FEMA administrative approval of State and local plans, findings and determinations on the current status of emergency preparedness around particular sites may be requested by the NRC through the NRC/FEMA Steering Committee and provided by FEMA for use as needed in the NRC licensing process. These findings and determinations may be based upon plans currently available to FEMA or furnished to FEMA by the NRC.
5. To assume responsibility for emergency preparedness training of State and local officials.
6. To develop and issue an updated series of interagency assignments which would delineate respective agency capabilities and responsibilities and define procedures for coordination and direction for emergency planning and response.

NRC - The Atomic Energy Act of 1954, as amended, requires that the NRC grant licenses only if the health and safety of the public is adequately protected. While the Atomic Energy Act does not specifically require emergency plans and related preparedness measures, the NRC had required consideration of overall emergency preparedness as a part of the licensing process.

10 CFR §§50.33, 50.34, 50.47, 50.54, and Appendix E to 10 CFR Part 50 include requirements for the licensee emergency plans. In a Federal Register Notice dated December 24, 1975, entitled "Radiological Incident Emergency Response Planning: Fixed Facilities and Transportation" (40 FR 59494), the Federal Preparedness Agency, a predecessor of FEMA, outlined responsibilities of various Federal agencies in providing assistance to State and local governments in their radiological emergency response planning. Both FEMA and NRC recognize that these responsibilities have been reevaluated and this will be reflected in the reissuance of that Federal Register Notice.

Specifically, the NRC responsibilities for emergency preparedness are:

1. To assess licensee emergency plans for adequacy.
2. To verify that licensee emergency plans are adequately implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications and equipment adequacy).
3. To review the FEMA findings and determinations on the adequacy and capability of implementation of State and local plans.
4. To make decisions with regard to the overall state of emergency preparedness (i.e., integration of emergency preparedness onsite as determined by the NRC and offsite as determined by FEMA and reviewed by NRC) and issuance of operating licenses or shut down of operating reactors.

III. AREAS OF COOPERATION

A. NRC Licensing Reviews

FEMA will provide support for NRC reactor, fuel facility and material licensing reviews, as requested, with regard to the assessment of the adequacy of State and local response plans for accidental radiological releases. This will include timely submittal of an evaluation suitable for inclusion in NRC safety evaluation reports.

Substantially prior to the time that a FEMA evaluation is required with regard to fuel facility and material license review, NRC will identify those fuel and material licensees with potential for significant accidental offsite radiological releases and for those NRC will submit to FEMA the emergency plans as they are completed.

FEMA routine support will include providing assessments of State and local plans related to reactor Construction Permit and Operating License reviews and continuing assessments of State and local plans during the facility lifetime. To support its findings and determinations, FEMA will make expert witnesses available before the Commission, the NRC Advisory Committee on Reactor Safeguards, NRC hearing boards and administrative law judges, any court actions, and during any related discovery proceedings. Nothing in this document shall be construed in any way to diminish NRC's responsibility for protecting the radiological health and safety of the public.

B. FEMA Review of State and Local Plans

NRC will assist in the development and review of State and local plans through its membership on the Regional Assistance Committees. FEMA will chair the Regional Assistance Committees. Consistent with NRC's statutory responsibility, NRC will recognize FEMA as the interface with State and local governments for interpreting radiological emergency preparedness criteria as it affects those governments and for reporting the results of any evaluation of State and local governments' emergency preparedness to those governments.

Where questions arise concerning the interpretation of the criteria, such questions will continue to be referred to FEMA headquarters, and when appropriate to the NRC/FEMA Steering Committee to assure uniform interpretation.

C. Evaluation of Exercises

FEMA and NRC will cooperate in determining exercise requirements for joint licensee, State, local and Federal agencies and will jointly observe and evaluate such exercises. NRC and FEMA will also jointly agree upon a set of exercise scenarios from which the scenario for a particular exercise may be selected.

D. Emergency Preparedness Guidance

NRC has lead responsibility for the development of emergency preparedness guidance for licensees. FEMA has lead responsibility for the development of emergency preparedness guidance for State and local agencies.

NRC and FEMA recognize the need for an integrated assessment of the degree of emergency preparedness by NRC licensees and State and local governments. NRC and FEMA will each, therefore, provide opportunity for the other agency to review and comment on emergency preparedness guidance prior to adoption as formal agency guidance.

E. Support for Automated Information Retrieval Systems

FEMA and NRC will each provide the other with continued access to those automatic data processing support systems which contain emergency preparedness data developed and/or utilized during the transition period.

At NRC this includes Automated Information Retrieval System (AIREs) support to the extent that it does not affect duplication or records retention. At FEMA this includes technical support to the Radiological Emergency Preparedness Management Information System. This agreement is not intended to include the automated information retrieval support for the national level emergency response facilities.

F. Ongoing NRC Programs

Ongoing NRC and FEMA research and development programs that are related to State and local emergency planning and preparedness will be coordinated.

G. Public Information Programs

FEMA will take the lead in developing public information programs. NRC will assist FEMA by reviewing for accuracy educational materials concerning radiation and its hazards and information regarding appropriate actions to be taken by the general public in the event of an accident involving radioactive materials. Public information activities will be addressed in the MOU dealing with response to actual emergencies.

- 5 -

IV. NEAR-TERM COOPERATIVE MEASURES

In order to achieve a prompt improvement in the state of emergency preparedness at and around nuclear power facilities, and because of the need for an integrated assessment of the degree of preparedness, FEMA and NRC recognize the need for an especially close working relationship.

The NRC/FEMA Steering Committee on Emergency Preparedness will be the focal point for coordination of emergency preparedness and response activities between the two agencies. The Steering Committee will consist of an equal number of members to represent each agency with one vote per agency. Where the Steering Committee cannot agree on the resolution of an issue, the issue will be referred to NRC and FEMA management. The NRC members will have lead responsibility for licensee preparedness and the FEMA members will have lead responsibility for State and local preparedness. The Steering Committee will coordinate the preparedness evaluation activities and develop upgraded acceptance criteria for licensee, State, and local emergency preparedness. NRC and FEMA will then consider and adopt criteria, as appropriate, in their respective jurisdictions. (See Attachment 1.)

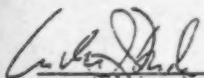
V. WORKING ARRANGEMENTS

- A. The normal point of contact for implementation of the points in this Memorandum will be the NRC/FEMA Steering Committee.
- B. The Steering Committee will establish the day-to-day procedures for assuring that the arrangements of this Memorandum are carried out.

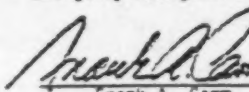
VI. MEMORANDUM OF UNDERSTANDING

- A. This Memorandum of Understanding shall be effective as of November 1, 1980, and shall continue in effect unless terminated by either party upon 30 days' notice in writing.
- B. Amendments or modifications to this Memorandum of Understanding may be made upon written agreement by both parties to the Memorandum.

Approved for the U.S. Nuclear
Regulatory Commission

 Nov 3, 1980
William J. Dircks (date)
Executive Director for Operations

Approved for the U.S. Federal
Emergency Management Agency

 4 Nov 80
Frank A. Camm (date)
Associate Director for Plans
and Preparedness

Attachment: FEMA/NRC Steering Committee

ATTACHMENT 1FEMA/NRC STEERING COMMITTEEPurpose

Coordinate efforts to promptly upgrade emergency preparedness for nuclear power reactors as described in the NRC and FEMA rules and the NRC/FEMA MOU's on Planning and on Response. Coordinate consistent criteria for licensee, State, and local emergency preparedness.

MembershipCo-Chairmen:

B. Grimes	NRC
J. McConnell (John Dickey)	FEMA

Members:

R. Jaske	FEMA
M. Sanders	FEMA
H. Gaut	FEMA
L. Higginbotham	NRC
K. Perkins	NRC
F. Pagano	NRC

Membership Changes

Changes to the membership of the NRC/FEMA Steering Committee may be made by the co-chairman representing the agency whose member is being changed.

Operating Procedures

The Steering Committee will maintain a record of each meeting to include identification of issues discussed and conclusions reached. No meeting will be held without the attendance and participation of at least the co-chairman or two assigned members of each agency.

Coordination

When items involving responsibilities of other NRC or FEMA offices are discussed, the affected office will be contacted as appropriate.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE FEDERAL EMERGENCY MANAGEMENT AGENCY
AND THE NUCLEAR REGULATORY COMMISSION
FOR INCIDENT RESPONSE

I. Introduction

This Memorandum of Understanding (MOU) is in recognition of the need expressed by the President's Commission on the Accident at Three Mile Island that Federal emergency support in any future accidents at nuclear power plants be better coordinated. It was also agreed in the January 14, 1980, MOU between Nuclear Regulatory Commission (NRC) and Federal Emergency Management Agency (FEMA) on the subject of prompt improvement in radiological emergency planning and preparedness, that a separate MOU would be negotiated covering NRC/FEMA cooperation and responsibilities in response to an actual emergency.

II. Purpose

This Memorandum of Understanding is to define the relationships between FEMA and NRC in connection with response to a potential or actual radiological emergency. The MOU focuses on the assistance that FEMA and NRC can provide to each other in carrying out responsibilities for the health and safety of the public.

III. Authorities and Responsibilities

FEMA was established by Reorganization Plan No. 3 of 1978 and placed into effect by Executive Orders 12127 of March 31, 1979 (44 F.R. 19367) and 12148 of July 20, 1979 (44 F.R. 43239) in order to create a single point of management for the emergency planning and response activities of the Federal Government.

Executive Order 12148 charges the Director, FEMA, with establishing policy for and coordinating all civil emergency planning and assistance functions for Executive agencies (section 2-101). It also provides that civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies (section 2-202).

On December 7, 1979, the President, in response to the recommendations of the Kemeny Commission on the accident at Three Mile Island, directed that FEMA assume lead responsibilities for all off-site nuclear emergency planning and response.

2

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, the NRC has the authority and responsibility for licensing and regulating, among others, nuclear power reactors in order to protect the health and safety of the public from radiation hazards. To meet its statutory responsibility for protecting the public health and safety from radiation hazards, the NRC will respond promptly and effectively to radiological emergencies.

IV. Agency Roles

The NRC and FEMA officials will work in tandem both on- and off-site. NRC will have the lead on-site and in matters relating to assessment of hazards and recommendations for protective action. FEMA will have the lead in the off-site Federal response role. These roles are complementary and require constant communication and mutual support. Such a cooperative structure will extend to NRC and FEMA relations with State and local officials. Based on each agency's specific authority, responsibilities and the public's needs in an emergency situation, the roles of each agency in a radiological emergency are complementary and enumerated as follows:

- A. NRC - NRC will maintain a readiness to function in a variety of roles. Within each of these roles, a spectrum of actions can be accomplished.
 1. Notification. NRC will notify FEMA, as quickly as possible, whenever a radiological emergency occurs or whenever there is a high potential for such an occurrence.
 2. Monitor the incident. NRC will verify and evaluate data from multiple sources to assure that appropriate operational measures are being taken, and assure that adequate information and recommendations are being provided to off-site agencies so that appropriate protective actions may be taken. NRC will also monitor these protective actions.
 3. Advise Other Government Entities. Provide technical assessment of on-site radiological conditions and of the physical condition of the facility to the appropriate State and local government officials as well as to FEMA and other Federal agencies.

Advise FEMA of any NRC or licensee recommendations for off-site protective actions. Work with FEMA representatives to establish a cooperative relationship with State and local officials including the Governors of the affected States.

Advise FEMA, State, local and other Federal government officials, of any operational decisions or actions being taken by the licensee or the NRC which may affect the off-site protective actions.

NRC should prepare appropriate recommendations for protective actions, for State and local officials, including the governors and local chief executives. Such recommendations should reflect all substantive dissenting views from other Federal agencies and should be presented jointly with FEMA. Direct contact is expected if imminent peril to the public health and safety exists and time does not permit a coordinated recommendation.

4. Disseminate Technical Information. In coordination with licensee, NRC will provide technical information regarding the radiological conditions on-site and around the nuclear facility and regarding the physical condition of the facility to the White House, FEMA, other Federal agencies, Congress, news media and general public. The NRC will also provide specific technical assessments to FEMA for its use in coordinating off-site response activities.

B. FEMA - FEMA will have the following roles in coordinating the Federal response and in support of NRC in its technical mission during a radiological emergency.

1. Notification. Receive emergency notification from NRC that a radiological incident has occurred.
2. Monitor. Receive the technical advisories of the NRC regarding the radiological conditions at and around the affected site and the physical conditions of a facility. Keep other Federal organizations with support roles advised of the situation.

3. Advise. Keep the Governor and his appointed representative as well as local Government officials informed of the status of Federal assistance being provided and that is available.
4. Coordination and Support. Provide and coordinate Federal response to assist NRC in carrying out its technical role. Coordinate response with State and local officials in connection with potential response activities associated with radiological emergencies. Coordinate Federal support to assist State and local officials when a decision is made to take protective action.
5. Dissemination of Information. FEMA will be responsible for the dissemination of information concerning off-site support activities to the White House, other Federal agencies, Congress, news media, and general public.

V. Emergency Response

- A. Criteria for Notification. NRC will notify FEMA whenever a radiological emergency occurs or there is a high potential for such occurrence; i.e. whenever the NRC makes a decision to activate the Executive Management Team (EMT). FEMA will notify NRC if it becomes aware of an occurrence through the activity of its Operations Center.
- B. Exchange of Personnel During an Emergency. As early as possible upon activation of the NRC Operations Center, NRC will consult with FEMA to determine whether each agency should have a representative stationed at the other's Operations Center.
- C. Communications.
 1. NRC and FEMA recognize the need for mutual communications support and interface capability, particularly in the areas of emergency notification and response coordination. The two agencies agree to periodically evaluate their respective communications capabilities to maintain compatibility for effective and efficient communications at

national, regional and local deployment levels. Communications liaison between the agencies will continue to identify interface/mutual support communications opportunities, to develop appropriate procedures for implementation of agreed-on courses of action, and will develop interagency emergency communications operational procedures.

2. FEMA authorizes NRC to enter the Civil Defense National Radio System (CDNARS) for relaying emergency information. NRC will notify the FEMA Operations Center (DR&R) when it needs to enter the CDNARS network. The FEMA Regional Center responsible for the geographical area in which NRC desires to operate will exercise net control functions. The primary transmission method will be by voice. NRC will reimburse FEMA for additional personnel costs incurred in the provision of NRC-requested service. NRC will acquire, at its own expense, equipment compatible with CDNARS.
3. FEMA agrees in the event of a nuclear incident, to permit NRC and all licensed fixed nuclear facilities access to the National Warning System (NAWAS), and any other warning networks which FEMA currently has available or may develop in the future. Specific details and justification for the needed access will be provided to FEMA by NRC. The use of NAWAS will be subject to FEMA criteria. FEMA will not be liable for additional costs involved.

- D. Participation in Exercises. FEMA and NRC will participate, in periodic exercises. Such exercises may involve FEMA/NRC Headquarters and/or Regional offices, licensees and State and local government participation. Each agency will fund its participation in these exercises. If any significant costs are anticipated, discussions concerning each agency's participation will be held at least 30 days before such an exercise. FEMA and NRC will also participate in periodic communication checks.

6

- E. Off-Site Collocation. The NRC Director of site operations will be located at the near-site emergency operations facility designated by a licensee. FEMA will assign at least one representative to this location to assure that FEMA and NRC activities are coordinated and that there is an effective information exchange.

VI. Public Affairs

NRC and FEMA agree that, where practicable, public announcements by the two agencies on emergencies will be coordinated. NRC announcements and public statements will deal with radiological conditions on-site and around the nuclear facility and the physical condition of the facility. Public statements by FEMA will deal with information concerning off-site response activities. Both agencies agree to work closely with the Governor's office in issuing public statements.

VII. Terms of Agreement

A. This Memorandum of Understanding shall take effect when signed by both parties and shall endure until terminated by one of the parties. Participation in this agreement may be terminated by either party following 30 days advance written notice to the other party.

B. Modifications to this Memorandum of Understanding may be made by written agreement of both parties.

C. It is recognized that the National Contingency Plan mandated in the NRC Appropriation Authorization (PL 96-295, June 30, 1980) will bear directly on the provisions of this Memorandum of Understanding and result in this agreement being superseded or modified.

D. In the event that an emergency or a major disaster is declared by the President pursuant to the provisions of the Disaster Relief Act of 1974, it is understood that FEMA will not issue any directives to the NRC, or make requests for assistance from the NRC under such Act which would impede or interfere with NRC's ability to meet its statutory responsibilities under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974.

E. The effective date of this agreement is 10/22/80.

For the Nuclear Regulatory Commission

John J. Ahern

For the Federal Emergency Management Agency

John W. McCarthy

Mr. GIUFFRIDA. I would add, I have had one meeting with the chairman of NRC and I am having a meeting on Monday with Mr. Palladino to address this very subject.

Senator MURKOWSKI. Do all States have a plan now?

Mr. GIUFFRIDA. No, they do not.

Senator MURKOWSKI. I assume you respond on a priority basis?

Mr. GIUFFRIDA. We are working out a schedule in conjunction with NRC. We really respond to their licensing schedule.

Senator MURKOWSKI. In an equal case which State would get the aid? The one that had the plan or the one that did not?

Mr. GIUFFRIDA. The one that had it.

Senator MURKOWSKI. The other would be penalized, they know that I assume.

Mr. GIUFFRIDA. Yes, they do.

There is another issue in that same area involving the State of California, whether or not the State can impose stricter requirements than the Federal Government mandated and that is in the lawyers hands, and I am not a lawyer.

Senator MURKOWSKI. Do you see yourself playing any role in terrorism?

Mr. GIUFFRIDA. The consequence of, yes, sir, and I have already addressed that subject with the FBI. And on the same basis, FEMA has no desire to investigate nor to negotiate for hostages and we sure don't intend to mount up a swat team and move out. But we do have the responsibility for the consequences of terrorist activity. Again, we go to a nuclear powerplant, if they took over, as long as they were onsite and they have not caused a relief or bypassed the recovery procedure in the central alarm station and the FBI appropriately has the—

Senator MURKOWSKI. Let's take the aircraft that have been hijacked time and time again. Are you notified? Do you function?

Mr. GIUFFRIDA. To my knowledge, we have been bypassed on those.

Senator MURKOWSKI. What is happening here, we seem to be generalizing over into an area where we assume we don't need a declared national emergency. I was under the impression that we do and I still think that is the case. We moved into the Watts situation, we were not making assumptions that it could very well have been because of the National Guard, but we move into some of these other areas, we are making assumptions that you can be involved. But don't we have to get back to the basis, there has to be a declaration and a request.

Mr. GIUFFRIDA. Yes, we do and what we have been trying to do in advance of that is to make sure that we understand among the responsible agencies that the situation may require transition of control, say, from onsite in a nuclear incident to offsite where there was going to be a necessity to relocate from the plume path and so on—it is covered in Executive Order 12148, I think Senator.

As a matter of fact, we have been working very diligently with these other agencies to make sure we are not perceived as transgressing on other people's turf, to make sure we can clarify this as much as possible in advance of any requirement. We always operate within the restrictions that are imposed with the request and the disaster declaration by the President.

Mr. CASEY. Could I add to that. I have been responding in the absence of a declaration under the authority——

Senator MURKOWSKI. You say you have been responding in the absence of a declaration, does that mean, in effect, you lobby for a declaration so you can be responsive?

Mr. CASEY. No; in effect we lobby against the declaration. We consult with the agencies of the Federal Government which have statutory responsibility, coordinate their activities, make those programs known and available to the people who need them, such as we did last year in the heat wave over in the Midwest. We pulled in several Federal agencies, held meetings in four major cities, and the only cost to FEMA was our travel.

Senator MURKOWSKI. But for Federal funds to flow, we need to have a request come in from the Governor to the President, the President responds by declaration of a national emergency.

Mr. GIUFFRIDA. For FEMA funds.

Senator MURKOWSKI. Is that not correct?

Mr. GIUFFRIDA. For disaster relief funds, that is correct.

Senator MURKOWSKI. Your expertise is available, through your own funding, to generally assist those who can help themselves. In other words, you don't take over when you are involved in a given situation, do you?

Mr. GIUFFRIDA. The first thing we do is contact the responsible officials and start tracking an incident or potential emergency. We just don't go in and get directly involved.

Senator MURKOWSKI. It concerns me that the act is being used for, as we mentioned, "riot control." I feel that it is contrary to the legislative intent of this committee. The statement that the act could legally be used indicates that the language of the law is unclear as to the intent and perhaps it needs revision. The discussion we had so far would indicate to me that if you got involved in all the areas of exposure that are out there, there is just not enough money in the till to take care of it, and it is obvious that you have not done that for various reasons. But I think by the conversation that we had so far, you have certainly indicated that there is nothing that you are not prepared to take on.

Mr. GIUFFRIDA. May I just make a comment. You used the words "riot control." I would reiterate that riot control is not our responsibility. The consequences of riots is what we are concerned with. I think the system has to acknowledge that the whole FEMA structure is there to do a carefully objective assessment of what is transpiring in advance of recommending to the President whether a declaration be made or not made.

Senator MURKOWSKI. I didn't think you made that recommendation. I thought in the earlier conversation that the Governor made the request to the President.

Mr. GIUFFRIDA. The Governor made a request to the President and the President's mechanism to determine what is going on is FEMA's role. Those reports that we collect in conjunction with the regional, State, and local people are the basis on which the President makes his decision, and I think that the system is functioning correctly. There is a staff of people——

Senator MURKOWSKI. How big a staff, roughly?

Mr. GIUFFRIDA. Total FEMA strength is about 2,200 nationwide.

Mr. CASEY. In the disaster program directly engaged in disaster related work, we have 162 people nationwide.

Senator MURKOWSKI. Those 162 are in the field and then the balance of the 2,000—

Mr. GIUFFRIDA. We have a variety. We have the Fire Administration, we have the Flood Insurance Administration, we have civil defense, we have continuity of Government, we have the dam safety program, we have Emergency Broadcasting System, we have certain portions of—

Senator MURKOWSKI. What do you do in the dam safety program?

Mr. GIUFFRIDA. We do it in conjunction with the Army Corps of Engineers.

Senator MURKOWSKI. You do it for TVA?

Mr. JETT. Well, the dam safety provision that FEMA has is a small coordinative role.

Senator MURKOWSKI. I take it a good deal of expertise is required to go in and inspect a dam and see if it is safe.

Mr. JETT. Ours is not an operational role. We have a small coordinative role to see that the national dam safety program in a comprehensive view is carried out. Our role is basically one of maintaining—

Senator MURKOWSKI. How many people are in dam safety?

Mr. GIUFFRIDA. I can't answer that but I will provide that for the record.

Senator MURKOWSKI. Please do.

[The information requested follows:]

Question. What staff resources does FEMA have committed to the area of Dam Safety?

Answer. FEMA devotes 2.5 staff years to the area of Dam Safety.

Senator MURKOWSKI. Have you gone to your subagencies to see if there is a redundancy in those things that can better be done by other agencies?

Mr. GIUFFRIDA. Yes, sir.

Senator MURKOWSKI. And you are satisfied in the area of dam safety?

Mr. GIUFFRIDA. No, I am not.

Senator MURKOWSKI. My understanding of dam safety is that TVA has got theirs and that the corps has theirs and that the Bureau of Reclamation has theirs. I wasn't aware that FEMA has one, too.

Mr. GIUFFRIDA. One of the commitments that I made to the White House, is that we would carry on precisely the kind of review that you are identifying. If we find that somebody can do one of the things we are doing, we will get rid of it.

Senator MURKOWSKI. I think the committee would appreciate a listing of your general areas of activity and the specific areas of your personnel.

Mr. JETT. I would reiterate that our dam safety responsibilities are coordination and oversight of the other Federal agencies. The function was transferred from the Office of the President which was in the Office of Science and Technology Policy. We have only two or three people in our staff who are involved in the program.

Mr. GIUFFRIDA. But even if those two or three are redundant, then you are correct, they should be out.

Senator MURKOWSKI. What do you do if we have a depression in this country? That is certainly an economic disaster. It causes people to be relocated, not only physically but some mentally. Is that an area that you would consider that FEMA would play a role in?

Mr. GIUFFRIDA. I think we are almost in downtown Cincinnati at this time.

Senator MURKOWSKI. Almost, not quite. You will know it if you were.

Mr. GIUFFRIDA. I am not being flipant. The Federal Government has a variety of other programs which would and hopefully are addressing the subject of the economic health of the Nation and long-term preventive rather than response action that should be taken up with Congress and the executive branch working together.

Senator MURKOWSKI. With regard to the act as proposed with the State making a contribution for Federal assistance along with the Federal Government, some States are more readily able to do that than others and it is my understanding, under the program, you are prepared to have funds with the idea that the funds would be remitting back to the Federal Government at such time that the State is probably able to pay. And that is in the new legislation, is it not?

Mr. JETT. That is in the new legislation offered by the administration.

Senator MURKOWSKI. That has not been the case up to this time. It has been total Federal funding in effect with no requirement of any reimbursement back to the Government.

Mr. JETT. To the best of my knowledge, that is the case. I don't think any States have asked—

Senator MURKOWSKI. Have any States provided, to your knowledge, any payment back even though they have not had to?

Mr. JETT. No, sir, not to my knowledge.

Senator MURKOWSKI. Do you envision just turning that back into the general fund or would it be appropriate that you utilize those funds as a reserve?

Mr. JETT. We are talking about the State commitment and the 75/25 cost sharing as proposed by the administration. That would reduce our obligation and commitment. That wouldn't be a cash flow back to the Federal Government. It would reduce our commitment. If a project we are considering totals \$8 million, we would offer \$6 million and expect them to put up \$2 million.

If money were returned to us, it would go into miscellaneous receipts.

Senator MURKOWSKI. Do you feel as a consequence of this States are required to put a lid on your program if there is a disaster? Let's assume the States decide that they only want so much relief to get 75 percent, why 25 percent is going to be pretty substantial.

Mr. GIUFFRIDA. I think it would make the States examine very carefully their requirements.

Senator MURKOWSKI. Whose prerogative? Who decides if the State under the new law wants your 75 percent funding? Is it the States or is it Federal dictate?

Mr. JETT. Basically the law would authorize the Federal Government—I believe this would be an action taken by the President himself—to make a decision to pay. The Federal Government would pay 75 percent of the project and the State and the local governments would pay 25 percent, if the State and Federal Government agree to the project. If the size of the catastrophe were so enormous or if that jurisdiction had suffered multiple disasters, we would have a provision that allows the President to advance the 75/25 percent sharing. It allows him to advance the State money on a payback provision and negotiate for long-term payback. We have several options.

Senator MURKOWSKI. So what you are saying is you think it means the State has the option as to whether or not they want to take it. They can, theoretically, take a proportionately less amount as long as they agree to pay 25 percent of what they took back?

Mr. GIUFFRIDA. Yes, sir, that is correct; for every \$3 the Federal Government provides, the State and local government would need to pay \$1.

Senator MURKOWSKI. I would appreciate it if you would look into that and see if that is correct, and I would ask the staff also to see if that is the circumstance.

I have heard the suggestion that Federal aid for public facilities including, perhaps, debris removal, to be in the form of block grant. Would you explain how this would differ from the present procedures, what advantage and disadvantage you would see in the block grant process.

Mr. CASEY. Senator, we have under consideration amending section 419 of the law. Section 419 of the law provides that if the cumulative total of a project application, is 25,000 or less, that we make a direct grant to the community without further followup—further followup meaning State audit and Federal audit. That, in effect, is what I would call a modified block grant to a categorical program.

We have under consideration and we have discussed it at one time or another with the committee staff, a proposal where a \$25,000 limitation be applied to line items rather than the cumulative total of the project application, and that becomes a grant to the community for repair of the facility under consideration. We still have this under consideration. I reviewed a draft proposal that the committee staff has worked up—and by the way, I must say that the draft that they have worked on and we have reviewed demonstrates that a great deal of thought and effort had gone into it and I congratulate you and your staff, Senator. But we have looked at a proposal for a block grant approach and I think I would suggest that the two staffs get together and we can sit down and discuss it.

I would like to point out, under the block grant approach that we are suggesting, the \$25,000 per line item in a project application, comprises 93 percent of our total paperwork and only 30 to 35 percent of our total obligations, indicating that we can eliminate a heck of a lot of paper work if we go into that approach.

Mr. GIUFFRIDA. Senator, with your concurrence, I have asked General Counsel to speak just a couple of minutes about those things that we would address in Public Law 93-288, the Disaster

Relief Act, and those things that we would address under the Executive Order 12148.

Senator MURKOWSKI. Before Mr. Jett goes into that, I would like to clear up one point that was brought up by staff, and it is not germane to what you are going to bring up.

The act provided a one-time nonmatching \$250,000 grant. It was a development preparedness grant to each State to prepare a State emergency plan. Now, a short moment ago we talked about States complying with plans and the statement was made that some States do not comply. Are we talking about the same plan?

Mr. GIUFFRIDA. I understood your question to deal with new powerplants which is separate from this \$250,000 grant and separate from this act. The requirement to have an emergency plan for a new powerplant is an ongoing requirement. All places where new powerplants are located have not yet written their plans.

Senator MURKOWSKI. Do all States have an emergency response plan?

Mr. GIUFFRIDA. They all have a basic emergency response plan, as I understand it, which was funded by that \$250,000.

Senator MURKOWSKI. They all have them?

Mr. GIUFFRIDA. Yes, sir.

Mr. JETT. Let me try to be brief. I think why some confusion may have come up in speaking about FEMA coordination responsibilities is because they really stem from two authorities that in some ways interact together but in other ways might be separate.

FEMA has an important coordinating responsibility, if the President declares an emergency or major disaster. Our regional directors have important authorities under the Disaster Relief Act. Once the disaster is undergoing, if the declaration has been made, the Federal Coordinating Officer, who is almost always a FEMA person, on the scene is authorized in the—

Senator MURKOWSKI. These regional directors are in each of the districts?

Mr. JETT. We have 10 regional directors.

Senator MURKOWSKI. And they are part of the 162 field people you have?

Mr. GIUFFRIDA. No; they are part of the total number of FEMA people that I have. The 162 are the ones specifically assigned to the disaster relief program.

Mr. JETT. They have very important responsibilities under the Disaster Relief Act also, you are correct. So, if a Presidential declaration occurs, we have coordination responsibilities, many of which are spelled out in the Disaster Relief Act.

I think the thing I would clarify is that the President assigned the Director of FEMA the coordination of emergency authorities of other Federal agencies on the President's behalf. In other words, the President needed a Federal focal point, a manager to act on his behalf to coordinate the other Federal agencies' programs, to oversee what those programs are doing, to oversee how their budgets are going, how the programs are being managed. Those are the overall emergency planning and emergency response programs. They don't necessarily activate in a time of disaster.

What I am saying, not only does the Director of FEMA have important coordination responsibilities in the case of a major disaster,

but even absent a major disaster he has important coordination responsibilities that he carries out on behalf of the President to just assist the administration in the management of the Federal agencies' programs for emergency planning, emergency mitigation, and emergency response.

Senator MURKOWSKI. Since the startup of FEMA, how was the decision made internally to expand into specific areas where you had the commitment to become involved in such things as mine safety?

Mr. JETT. We are not in mine safety.

Senator MURKOWSKI. Why are you in dam safety and not mine safety? How do you make a decision whether you are going to get in dam safety and why aren't you in mine safety?

Mr. GIUFFRIDA. The simplest answer, dam safety was one of those missions that was assigned and mine safety was not.

Mr. JETT. The President mentioned dam safety particularly.

Senator MURKOWSKI. So the President not only has the authority to dictate the expenditure of your money, but where your expertise should be?

Mr. GIUFFRIDA. Where our involvement should be.

Senator MURKOWSKI. Well, you can be involved in dam safety by using somebody else's expertise but if you have dam inspectors in your department, why then you have expertise in dam safety.

Mr. JETT. I believe we have no dam inspectors in our department. These are simply program overseers and coordinators.

Mr. GIUFFRIDA. I get your point.

Senator MURKOWSKI. I think we are communicating but I am not convinced.

Mr. GIUFFRIDA. OK.

Senator MURKOWSKI. I fail to grasp the fact that you get into areas that seem to be extremely broad without any guidelines as to what your charge is, and your charge seems to be whatever direction might be dictated to you. I could see the direction under the authority vested in the executive branch that the money is set for the President to make the declaration of the emergency. But when you get into whatever you are doing in the nuclear area, for example, I would question whether that is within the original conceptual intent of the group that was here many years ago when this program was authorized.

Mr. GIUFFRIDA. Senator, I would suggest there is no dynamic difference among emergencies that have the potential for catastrophic casualties, it is only the precipitating incident that we are talking about.

FEMA's role continues to be, and I think correctly so, to be prepared to handle coordination irrespective of who else is handling the event onsite. FEMA's role is to insure that the whole response spectrum is kept apprised, that it is geared up on schedule, and moves to the area where needed and on schedule, be it in the vicinity of a new powerplant, in the vicinity of an area that is having a hurricane, or whatever the situation may be.

Our involvement is to insure that the suffering, if possible, is prevented; if it cannot be prevented, kept to a minimum, and that we move expeditiously and effectively.

Senator MURKOWSKI. You are coordinating the Red Cross.

Mr. GIUFFRIDA. That is correct.

Mr. JETT. Maybe I can clarify one more time. In our coordination role in many of the things we have talked about, the Disaster Relief Act is not involved, the fund is not activated; we are not exercising the authority under the Disaster Relief Act of 1974. We have a broad array of emergency planning authorities other than the Disaster Relief Act—the Civil Defense Act, the NRC Authorization Act of 1980 established response for us in this offsite emergency planning. So, if we coordinate the offsite planning with EPA, Department of Transportation, HHS, and other people who would be involved in an incident, that planning occurs under the authority of the Nuclear Regulatory Commission's Authorization Act of 1980 not under the Disaster Relief Act, and we don't charge the disaster relief fund for that effort.

We do all preparedness planning with all the Federal agencies under the Civil Defense Act.

I think it would be helpful if we give you an array of our statutory authority so you would see that a broad spectrum of the Director's responsibilities doesn't occur under the Disaster Relief Act.

[Mr. Jett supplied the following:]

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATUTORY AUTHORITIES

- o Federal Civil Defense Act of 1950, as amended
- o National Security Act of 1947, as amended
- o Defense Production Act of 1950, as amended
- o Strategic and Critical Materials Stock Piling Act
- o Disaster Relief Act of 1974, as amended
- o National Flood Insurance Act of 1968, as amended
- o Flood Protection Act of 1973, as amended
- o Urban Property Protection and Reinsurance Act of 1968, as amended
- o Earthquake Hazards Reduction Act of 1977, as amended
- o Federal Fire Prevention and Control Act of 1974, as amended
- o Nuclear Regulatory Commission Authorization Act of 1980
- o Comprehensive Environmental Response and Liability Act

EXECUTIVE ORDERS

- EO 11490 - Emergency Assignments
- EO 10480 - Defense Mobilization
- EO 11179 - Executive Reserve
- EO 12046 - Telecommunications
- EO 10421 - Physical Security
- EO 12148 - FEMA organization
- EO 12155 - Strategic stockpile
- EO 11988 - Flood Plain Management
- EO 12241 - Radiological Preparedness
- EO 12127 - FEMA Organization
- EO 12316 - Environmental Emergencies

Senator MURKOWSKI. I would also like to see, as I think I mentioned, the requirements and responsibilities of your personnel, what their involvement is, what the general responsibility is.

Mr. GIUFFRIDA. Yes, sir.

[The information requested has been retained in the committee files.]

Senator MURKOWSKI. The act requires that public facilities will be replaced in conformity with current applicable codes, specifications, and standards. How much does this provision add to the cost of Federal assistance for public facilities?

Mr. CASEY. That is hard to estimate, Senator. We can try and pull something together and give you an estimate, but that is all it would be because the codes and standards we are talking about are the codes and standards adopted by the States where the disasters occur, and the local communities in which the disasters occur, and they vary across the country. There is no set standard across the country.

Senator MURKOWSKI. Well, the key word obviously is "replace" because of the cost of replacement up to current code for a public building is truly staggering in relationship to what that building cost in its original state prior to 20 years passing and the building theoretically is doing the same job for the public, and that is providing space to operate on.

Do you think that is perhaps a bit far reaching in that should be the responsibility of the Federal Government to replace in conformity with current applicable codes?

Mr. CASEY. As opposed to passing that cost on to the local governments?

Senator MURKOWSKI. Well, under the new act I would assume that local governments would pay 25 percent.

Mr. CASEY. They pay 25 percent, exactly.

Senator MURKOWSKI. Under the new program. But by the same token, there is no restriction on what kind of a Taj Mahal they might want to build with Federal dollars. It says here it will be replaced in conformity with applicable codes.

Mr. CASEY. What we are talking about, Senator, if we had a townhall with so many square feet of floor space, that is what we would authorize. But we would also pay for the current cost of installing electrical wiring to the current codes. This may have been a townhall that was built back in the 1800's.

Senator MURKOWSKI. Let's say it is a wooden one and two stories. Are you going to build a brick and steel one or are you going to build a wooden one? Is it somebody's decision that you make arbitrarily or is there regulation that says you will try and rebuild it as close to what was formerly there as possible keeping in mind it would be a new structure?

Mr. CASEY. We have regulations that specifically prescribe what can be done, and I must say it is very minimal and there is no gold plating on what we authorize. Now, if the local community wants to make some additions, take advantage of the disaster, they must pay for that themselves.

Senator MURKOWSKI. Senate bill 1217 would eliminate entitlement for the 1-year free rent period for the use of temporary housing. Would you discuss this provision briefly? Are we talking about

saving a substantial amount? Was that a major factor in the Cuban refugee situation?

Mr. CASEY. No; that was not a major factor.

Senator MURKOWSKI. Are we substantially reducing Federal dollars in this inclusion in S. 1217?

Mr. CASEY. We are estimating, based on experience, that there will be a savings of approximately \$1 million a year.

Senator MURKOWSKI. Does the agency own mobile homes?

Mr. CASEY. Yes, we do.

Senator MURKOWSKI. How many?

Mr. CASEY. We own about 3,000 and they are placed in four storage areas strategically located throughout the country.

Senator MURKOWSKI. When were they last used?

Mr. CASEY. In the last couple of months?

Senator MURKOWSKI. When were the last significant numbers used?

Mr. CASEY. Hurricane Allen last year.

Senator MURKOWSKI. Where was that?

Mr. CASEY. In Texas.

Senator MURKOWSKI. Where are they stored now?

Mr. CASEY. We have a storage depot in Texas.

Senator MURKOWSKI. How many do you have in Texas?

Mr. CASEY. Probably around 700 or 800. But many of these go back to tropical storm Agnes in Pennsylvania and New York when the Federal Government purchased thousands of mobile homes and we are still using them. That is part of our stockpile; they go back to 1972. We use them over and over again.

Senator MURKOWSKI. When is the last time you bought any?

Mr. CASEY. Wichita Falls, Tex.; that was a tornado about 2 years ago.

Senator MURKOWSKI. How many did you buy?

Mr. CASEY. I have to provide that for the record.

[The information referred to follows:]

Questions concerning FEMA Mobile Homes

Q. Where are FEMA mobile homes?

A. FEMA's mobile homes are stored at four storage centers, located in Richmond, Kentucky; Forest Park, Georgia; Palo Pinto, Texas; and Ogden, Utah. Ogden has recently been converted to a cold-storage operation under the management of the Palo Pinto facility.

Q. How many does FEMA have?

A. 2,800 mobile homes are in storage and another 150 are occupied as temporary housing by disaster victims for a total of 2,950 units.

Q. When were they bought?

A. The current inventory consists of units purchased in 1972 for Hurricane Agnes, 1977 for the Johnstown flood, and 1979 for Wichita Falls tornado and Hurricane Frederic. Seventeen percent of the inventory are 1972 units, 16 percent are 1977 units, and 67 percent are 1979 units. The older units obviously have more usage than those more recently procured.

Q. When have they been used? How many times?

A. Mobile homes were first purchased by the Federal Government in 1972 and have subsequently been used in 133 declared disasters or emergencies to provide temporary housing for approximately 33,784 applicants. Mobile homes are not purchased according to a schedule, but only when existing resources and storage center inventories are not sufficient to meet the need for temporary housing in major disasters or emergencies declared by the President.

Q. What is the cost/benefit ratio of using government-owned mobile homes instead of a private source?

A. Several studies have been conducted over the years to determine the most cost-effective method of providing temporary housing when available resources, including minimal home repairs, are insufficient. Each study concluded that mobile homes are the most feasible method of providing temporary housing (see Attachment, A Capsule History of the Mobile Home Storage Program). The Federal Government leased mobile homes in Hurricane Camille, 1969, and Hurricane Celia, 1970. As a result of these costly experiences, Congress authorized in the Disaster Relief Act the procurement of mobile homes. The Federal Government has purchased mobile homes for disaster use since 1972. Following the large procurement of commercial units for Hurricane Agnes, 8,000 units were retained in strategically located storage centers for reuse in major disasters. Some of these units have been used up to six times.

We are again examining alternatives to the mobile home program. This examination will include a plan for "off-the-lot" purchase of commercial models and will be tested in areas where mobile homes can be sold to disaster occupants.

Senator MURKOWSKI. Do you have any of them occupied now?

Mr. CASEY. Yes; we do have mobile homes occupied.

Senator MURKOWSKI. In Texas?

Mr. CASEY. In Texas. I think there are some in Wichita Falls.

Senator MURKOWSKI. Are the people in them paying rent or are they still on the 1-year free rent?

Mr. CASEY. These were a couple of years ago and we establish a rent in accordance with the ability of the people to pay. Some of their homes are still being repaired and they are making mortgage payments on their homes, so we make adjustments on what the rent should be starting with a base which is the fair market rate in the area that we are dealing with.

Senator MURKOWSKI. So you do rent them at a fair market rate in the area?

Mr. CASEY. Yes, sir; adjusted according to the person's ability to pay.

Senator MURKOWSKI. Then it is hard to get fair market rate, that is one definition over another. If you are going to adjust it, somebody is going to have to make a decision on what somebody can pay on the basis of a fair market rate, but it is certainly not an equalizer by any means.

Mr. CASEY. Right.

Senator MURKOWSKI. In what kind of condition are these mobile homes when returned to the Government?

Mr. CASEY. They are returned in fair condition, Senator, and I would say that on the average it would just be a few hundred dollars to rehabilitate them.

Senator MURKOWSKI. These are standard running homes, running water, 12 feet wide and 60 feet long?

Mr. CASEY. We have varying sizes, one bedroom, two bedrooms, and three bedrooms and they are not the standard that you purchase off a lot. These have been strengthened so that we can reuse them. The mobile homes you buy off a lot could be transported once or twice perhaps and then would fall apart.

Senator MURKOWSKI. Don't you think it would be cheaper for the Federal Government to work with mobile home trailer operators in the event of a national emergency to lease them and provide them, recognizing it is going to take an assembling effort, but you could move them out of Texas and let the people that are dealing in the business operate them rather than the Federal Government.

Mr. CASEY. Senator, we have looked into that. The industry will not participate with us in an arrangement such as that.

Senator MURKOWSKI. When you say the industry, are you talking about the mobile home industry?

Mr. CASEY. There is a Mobile Home Association. They don't want to go into a leasing arrangement with us. We have talked to some fairly large manufacturers and they do not want to go into a leasing arrangement. Further, we have found that it is not costeffective.

Senator MURKOWSKI. I don't think it is costeffective to have 3,000 mobile homes sitting in Texas unoccupied.

Mr. CASEY. It doesn't cost us very much to store them.

Senator MURKOWSKI. No; but by the same token, they are unoccupied, and if you deal with a mobile home association and it is his

business, he is going to move those in and out and take care of them. I would hesitate to say how much money the Government has spent on these mobile homes by the time they have moved them around a couple of times, renovating them each time, and then hold them in readiness for another emergency.

Mr. CASEY. Senator, just let me interject. We have conducted studies on this and have come up with a favorable cost-benefit ratio, and I will submit a copy of that.

Senator MURKOWSKI. I would like very much to go over the cost-benefit ratio on mobiles because I have had a good deal of experience in the mobile home business and any time the Government gets into the mobile home business, it generally can be done much cheaper by the private sector.

[Information regarding cost/benefit ratio may be found with previous submission at p. 41.]

Senator MURKOWSKI. I am going to ask for a recess for about 15 minutes. We have a vote. And if you gentlemen will please excuse me, we will reconvene in about 15 minutes.

Thank you.

[Whereupon, a short recess was taken.]

Senator MURKOWSKI. I call the hearing back to order. Thank you for your patience.

I think we were, gentlemen, on the matter of mobile homes when we left we were debating the pro's and con's whether the Federal Government should or should not be in the mobile home business in the disaster relief area.

- I think that we have indicated that you will provide us with some information on where those mobile homes are, and how long we had them, and what the occupancy has been and how many times they have been, moved around. And I assume when you move them into a community, why you move them into approved facilities which means water and sewer and the other amenities associated and you develop that and rent it, and I assume you dispose of that land when you leave.

Mr. CASEY. Exactly.

Senator MURKOWSKI. What else does FEMA own?

Mr. GIUFFRIDA. I don't know how to answer that.

Senator MURKOWSKI. You own 3,000 mobile homes. That is a good place to start.

Mr. GIUFFRIDA. I can't answer. I will provide that.

Senator MURKOWSKI. Do you have an inventory list of what you own?

Mr. GIUFFRIDA. I am sure we do.

Senator MURKOWSKI. I think that will be interesting to the committee.

[The information requested follows:]

FEMA SPACE ALLOCATIONS - OFFICE AND FACILITIES

		SPACE ALLOCATION	LOCATION	PRIMARY USAGE	FY 81 GSA STANDARD LEVEL USER CHARGES (SLUC)	FY 81 DIRECT LEASE
GSA	HQ	191,857 sq. ft.	Washington, DC	Office	\$2,097,017	\$406,772 ^{2/}
GSA	HQ	12,910	Charlottesville, VA	Computer/ Office	70,643	—
GSA	R-I	13,085	Boston, MA	Office	155,300	—
DoD	"	22,765	Maynard, MA	Fed. Reg. Center	— ^{1/}	—
GSA	R-II	19,915	New York, NY	Office	260,259	—
GSA	R-III	15,816	Philadelphia, PA	Office	152,006	—
DoD	"	51,226	Olney, MD	Fed. Reg. Center/ Computer	— ^{1/}	75,900 ^{3/}
GSA	R-IV	24,185	Atlanta, GA	Office	174,822	—
GSA	"	56,441	Thomasville, GA	Fed. Reg. Center	163,279	—
GSA	R-V	19,915	Chicago, IL	Office	205,300	—
GSA	"	42,781	Battle Creek, MI	Fed. Reg. Center	189,695	—
GSA	R-VI	566	Dallas, TX	Office	6,178	—
DoD	"	82,909	Denton, TX	Fed. Reg. Center	260,092	—
GSA	R-VII	24,156	Kansas City, MO	Office	183,013	—
GSA	R-VIII	66,707	Denver, CO	Fed. Reg. Center	257,098	—
GSA	R-IX	19,215	San Francisco, CA	Office	224,206	—
GSA	"	12,507	Santa Rosa, CA	Fed. Reg. Center	71,004	—
U.S. Army	"	22,700 ^{4/}	Presidio, CA	Office	—	—
GSA	R-X	1,334	Seattle, WA	Office	24,168	—
DoD	"	35,199	Bothell, WA	Fed. Reg. Center	— ^{1/}	—
FEMA	Special Facility	606,000	Berryville, VA	Office/ Computer	— ^{1/}	—
J.S. Fire	National Fire Academy	246,895	Emmitsburg, MD	Office/ Class- room	— ^{1/}	—
J.S. Fire	Emergency Management Institute	44,308	Emmitsburg, MD	Office Class- room	— ^{1/}	—
	TOTAL	1,633,392 sq. ft.			\$4,494,080	\$482,672

1/ Facilities are operated by FEMA; no SLUC payments to GSA.

2/ \$380,582 direct lease cost under U.S. Fire Administration authority; \$26,190 utilities and services to Department of the Navy.

3/ 58.85 acres of antenna field property leased for FEMA by U.S. Army Corps of Engineers.

4/ Proposed consolidated location for R-IX. Funds in amount of \$550,000 urgently needed for rehabilitation.

FEMA REAL PROPERTY INVENTORY

	DESCRIPTION	ACREAGE/STRUCTURE	LOCATION	STATUS/USAGE	REIMBURSABLE COSTS FY 81
OWNED FEE ADMIN.	St. Joseph College ^{1/} Site	107 acres (19 buildings)	Emmitsburg, MD	Instructional Facilities	N/A
OWNED FEE ADMIN.	Majorie Webster College ^{2/}	9 acres	Washington, DC	Vacant - Property for Sale	N/A
LEASE	Site #3	12 acres	Gerrardstown, WV	Communications Site (Deactivated)	\$419
DoD	Proposed Federal Regional Center	80.3 acres	Forestville, CA	Unimproved Land	N/A
DoD	Antenna Field	215.5 acres	Ft. Custer, MI	Communications Facility (FRC Support)	N/A
DoD	Antenna Field	69.1 acres	Santa Rosa, CA	Communications Facility (FRC Support)	N/A
DoD	Antenna Field ^{2/}	160 acres	Watick, MA	Unimproved Land	N/A
DoD	Antenna Field ^{2/}	122 acres	Aberdeen, MD	Communications Facility	\$15,000
DoD	Antenna Field ^{2/}	476 acres	Parsons, KS	Unimproved Land	N/A
DoD	Blue Grass Strategic Storage Center ^{3/}	60 acres	Richmond, KY	Equipment Storage	\$17,640
DoD	Northwest Strategic Storage Center ^{3/}	13 acres	Ogden, UT	Equipment Storage	\$21,943
FEMA	Dempsey Strategic Storage Center ^{3/}	162 acres	Palo Pinto, TX	Equipment Storage	N/A
DoD	Forest Park Strategic Storage Center ^{3/}	103 acres	Forest Park, GA	Equipment Storage	\$52,630
	TOTAL	1588 acres			\$107,632

^{1/} St. Joseph College and Marjorie Webster College were purchased under the authority of the Federal Fire Prevention Act of 1974. Both facilities are FEMA controlled.

^{2/} These sites are reserved for development of the Decision Information Distribution System (DIDS) under the Director of Plans and Preparedness.

^{3/} These centers are used as distribution centers for mobile homes and related equipment under the Disaster Assistance Program managed by the Office of Disaster Response and Recovery.

Mr. GIUFFRIDA. I am assuming you mean unusual things like mobile homes.

Senator MURKOWSKI. I am not speaking of typewriters, I am talking about automobiles, ambulances, fire engines, airplanes, materials, things of substance.

Mr. JETT. We own a few things of that nature. We do own a piece of property in Emmitsburg, Md. We were authorized to buy that piece of property under separate legislation, National Fire Prevention and Control Act. We own the property and we have our full training compliment there under the National Emergency Training Center.

Senator MURKOWSKI. That is being utilized?

Mr. GIUFFRIDA. Yes; and we have another piece of property that we are selling.

Senator MURKOWSKI. What was that for?

Mr. JETT. The National Fire Prevention Act allowed us to buy a piece of property to establish the National Fire Academy. Several years ago a site was selected and acquired, the Marjorie Webster campus in Washington, D.C. The site was later determined not to be large enough to accommodate the Academy's needs and the authorizing committee for the National Fire Prevention Act authorized that the Marjorie Webster campus site be sold and the proceeds of the sale be applied to the acquisition and renovation of the second site selected which was the St. Joseph College campus in Emmitsburg, Md., and that is the place we acquired.

Senator MURKOWSKI. How many people do you have there at one time?

Mr. GIUFFRIDA. Students?

Senator MURKOWSKI. Or whatever.

Mr. GIUFFRIDA. They run classes all year long.

Senator MURKOWSKI. These are students employed by FEMA?

Mr. GIUFFRIDA. No; these are students that come from the various 50 States and local jurisdictions, fire services, emergency response agencies, and so on. They go through a variety of programs out there.

Senator MURKOWSKI. You provide training, then, for people that are not involved in FEMA's employment, then?

Mr. GIUFFRIDA. We provide training to other than FEMA employees, that is correct.

Senator MURKOWSKI. You provide them to community fire departments?

Mr. GIUFFRIDA. Right.

Senator MURKOWSKI. Do you bring them back here?

Mr. GIUFFRIDA. In some instances, yes. In some instances we fund out each program.

Senator MURKOWSKI. They don't pay anything for this training?

Mr. JETT. We provide the training course. They pay 25 percent of their cost of attending the Academy. That is also authorized. We simply follow the provision of the National Fire Prevention and Control Act.

Mr. GIUFFRIDA. That is in the National Fire Act.

Senator MURKOWSKI. How many other duplicating facilities are available for a volunteer fire department to go have its people trained?

Mr. GIUFFRIDA. None that I am aware of, Senator.

Senator MURKOWSKI. I think that we have pretty well exhausted the questions. I am going to ask that the record be left open for 10 days and I would ask that any written material be submitted between that timeframe. There will be some questions from the staff and perhaps members of the full committee directed to the witnesses.

We, as I indicated before, are going to have another hearing on July 21 or thereabouts. I am going to recess this hearing to the call of the Chair with appropriate notice to you.

I am concerned about two things which I think are evident by my general questioning and that is the broad parameters of FEMA as it is seen through the eyes of its administrators and whether there is, in reality, a need for some defensive outline of scope of activity.

I am also concerned about the realities of some of the service capabilities that may or may not be redundant and contrary to the best interest of the Government from the standpoint of fiscal responsibility and I think we will have a better idea of that when we get into a little more detail on the personnel and the obvious mobile home situation.

I certainly thank you gentlemen for your cooperation and your willingness to present the responses to our questions. And speaking for the chairman and the other committee members, why, we thank you for your cooperation and look forward to working with you. And I think that all members of the committee are interested in establishing a closer rapport with FEMA and its activities.

With that we will recess the hearing subject to the call of the Chair. Thank you.

[Whereupon, at 4:15 p.m., the subcommittee recessed, to reconvene subject to the call of the Chair.]

[The bills, S. 1216 and 1217, follow:]

97TH CONGRESS
1ST SESSION

S. 1216

To amend the Disaster Relief Act of 1974, as amended.

IN THE SENATE OF THE UNITED STATES

MAY 18 (legislative day, APRIL 27), 1981

Mr. STAFFORD (for himself and Mr. MURKOWSKI) (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Disaster Relief Act of 1974, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Disaster Relief Act of 1974, as amended, is amend-
4 ed by adding a new section 319, as follows:

5 “SEC. 319. The Attorney General of the United States
6 is authorized to institute actions in the United States district
7 court for the district in which an emergency or major disaster
8 is declared pursuant to section 301 (a) or (b) of Public Law
9 93-288, or in such district as otherwise provided by law,
10 against any party whose acts or omissions may in any way

1 have caused or contributed to the events resulting in a Presi-
2 dential declaration of emergency or major disaster. Upon the
3 showing that an emergency or major disaster was caused by
4 an act or omission of such party, or that an act or omission of
5 such party contributed to the effects of an emergency or
6 major disaster, then such party shall be liable to the United
7 States for the full amount of Federal expenditures made to
8 alleviate the suffering or damage attributable to such act or
9 omission.”.

○

97TH CONGRESS
1ST SESSION

S. 1217

To amend the Disaster Relief Act of 1974, as amended, to authorize the appropriation of additional sums to carry out the Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18 (legislative day, APRIL 27), 1981

Mr. STAFFORD (for himself and Mr. MURKOWSKI) (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Disaster Relief Act of 1974, as amended, to authorize the appropriation of additional sums to carry out the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Disaster Relief Act
4 Amendments of 1981".

5 SEC. 2. Section 606 of the Disaster Relief Act of 1974,
6 as amended, is amended to read as follows:

7 "SEC. 606. Except as provided by the amendment made
8 by section 501—

1 “(a) there are authorized to be appropriated to the
2 President \$369,000,000 for the fiscal year ending Sep-
3 tember 30, 1982, and such sums as may be necessary
4 for the fiscal years ending September 30, 1983, and
5 September 30, 1984.

6 “(b) there are authorized to be appropriated to the
7 Federal Emergency Management Agency \$5,294,000
8 for the fiscal year ending September 30, 1982, and
9 such sums as may be necessary for the fiscal years
10 ending September 30, 1983, and September 30,
11 1984.”.

12 SEC. 3. Section 404(a) of the Disaster Relief Act of
13 1974 is amended to read as follows:

14 “(a) The President is authorized to provide, either by
15 purchase or lease, temporary housing, including, but not lim-
16 ited to, unoccupied habitable dwellings, suitable rental hous-
17 ing, mobile homes, or other readily fabricated dwellings for
18 those who, as a result of a major disaster or emergency, re-
19 quire temporary housing. Temporary housing assistance shall
20 be provided only when adequate alternate housing is unavail-
21 able, unless there is a compelling need to do so because of
22 severe hardship. The assistance to be provided shall be deter-
23 mined by the President based on the fair market value of the
24 accommodations being furnished, adjusted to take into con-
25 sideration the financial ability of the occupant. Any mobile

1 home or other readily fabricated dwelling shall be placed on a
2 site complete with utilities provided either by the State or
3 local government, or by the owner or occupant of the site
4 who was displaced by the major disaster or emergency, with-
5 out charge to the United States. The President may author-
6 ize installation of essential utilities at Federal expense and he
7 may elect to provide other more economical or accessible
8 sites when he determines such action to be in the public
9 interest.”.

10 SEC. 4. The Disaster Relief Act of 1974, as amended, is
11 amended by adding a new section 420, as follows:

12 “SEC. 420. (a) Notwithstanding the provision of any
13 other section of this Act, assistance provided pursuant to sec-
14 tions 402 and 403 (including those applied for under the au-
15 thority of section 419) shall not exceed 75 per centum of the
16 otherwise eligible costs.

17 “(b) In any case where an eligible applicant (or the
18 State) is unable financially to assume the remaining 25 per
19 centum, such as the occurrence of concurrent, multiple dis-
20 asters or emergencies in given jurisdictions or the occurrence
21 of a very catastrophic event, the President is authorized to
22 advance to the State such 25 per centum share. Any such
23 advance is to be repaid to the United States.”.

AMENDING THE DISASTER RELIEF ACT OF 1974

TUESDAY, JULY 21, 1981

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT,
Washington, D.C.

The subcommittee met, at 2:05 p.m., in room 4200, Dirksen Senate Office Building, Hon. Frank H. Murkowski (chairman of the subcommittee) presiding.

Present: Senator Murkowski.

OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Good afternoon.

We will call the Subcommittee on Regional and Community Development to order.

This afternoon we have a distinguished witness list, which I will introduce in just a moment.

I think it appropriate, however, that I make an opening statement at this time.

Today we continue the oversight and reauthorization hearings on the Disaster Relief Act. The hearing is intended to provide our subcommittee with an overview of the issues prior to reauthorization.

The current authorization will expire at the close of this fiscal year.

The focus of the subcommittee hearing is on the legislative proposals that have been offered by the administration.

Two bills are pending before the committee, S. 1216, and S. 1217. Most important of the provisions contained in these bills is to mandate by statute a Federal-State cost-sharing formula for debris removal and the replacement of public facilities. Should cost sharing be mandated in the law? If so, what is the proper percentage? I know that some of the witnesses today will be particularly interested in addressing this important issue.

However, I want to emphasize that we will be happy to have any suggestions or comments you may care to make.

There are a number of issues that I will look into when reauthorization of the act is considered. I am especially concerned over the expansion of the interpretation of what constitutes a disaster or an emergency.

During the last administration, the interpretation of the act was broadened so much that it now appears it can be used to cover almost any emergency. This trend to broaden the act is most notably exemplified by the declaration of south Florida last year during

the Cuban influx. It was graphically shown also in testimony before this subcommittee by the Federal Emergency Management Agency last week. We were told the authorities of the act may be used to alleviate the consequences of such areas including riots or terrorists.

Prior to the last few years, implementation was restricted generally to catastrophes of natural causes and the legislative history certainly restricts the use of the act as well.

I am concerned there may not be enough money in the Treasury if the assistance provided by this act becomes available in every type of emergency.

Following these hearings, we may have a bill to introduce as a result of what is learned about these and other matters. I certainly welcome the testimony of the witnesses and appreciate your being here.

And while this marks the second scheduled hearing for the record, the chair recessed the first hearing 2 days ago to the call of the Chair.

With that, gentlemen, I would refer to the agenda and call our first witness, Mr. Henry Eschwege, Director, Community and Economic Development Division, General Accounting Office.

Mr. Eschwege, it is a pleasure to welcome you this afternoon and we look forward to hearing your testimony.

STATEMENT OF HENRY ESCHWEGE, DIRECTOR, COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY RONNIE WOOD, GROUP DIRECTOR, AND RONALD MORGAN, SENIOR EVALUATOR

Mr. ESCHWEGE. Thank you, Mr. Chairman.

I have a prepared statement. If you would like, I can summarize it or read it in total.

Senator MURKOWSKI. Whichever you would prefer.

Mr. ESCHWEGE. Thank you. I think I can cut out a few of the paragraphs on it.

I would like to introduce my colleagues here this afternoon.

On my right is Ronnie Wood, our groups director, and Ron Morgan, who is senior evaluator on some of the work that I will be discussing here this afternoon.

We do welcome your invitation to be here today to discuss the results of some of our past reviews of Federal assistance administered by the Federal Emergency Management Agency under the Disaster Relief Act of 1974.

Assistance can be provided in the form of loans, grants, and insurance for losses from natural disasters.

Our recent reports related to poor controls over Federal expenditures after the 1978 Massachusetts blizzard, States' preparedness to respond to disasters, Federal snow-removal reimbursement policy, and a report on analysis of what Federal the Federal-disaster-assistance policy should be.

We issued a report in January 1981 entitled "Poor Controls Over Federal Aid in Massachusetts After the 1978 Blizzard Caused Questionable Benefit Payments."

We found a lack of coordination among the Federal agencies as well as weakness in administering disaster assistance programs. To place our findings in perspective, it must be recognized that in a severe disaster situation, tremendous pressure is placed on Government agencies to provide assistance in a timely manner and that a certain amount of duplicative or questionable benefits can be expected.

We projected that duplicative benefits or questionable grants occurred in 913, or 26 percent, of 3,417 cases in a universal sample.

Most of the duplication resulted from a lack of coordination between HUD's emergency repair to residences program and SBA's disaster loan program.

The two programs provided benefits for the same losses because HUD and SBA did not exchange timely information.

For example, at one family's residence, a new burner valued at \$482 was installed 11 days after the storm under the emergency repair program at no cost to the owner; 4 months later, SBA approved a \$14,200 loan which included \$1,500 to replace the single heating system in this same residence.

The family used \$4,476 of the loan proceeds to install additional heating systems in its second and third floor apartments. This expenditure was not disaster related.

In another case, an individual applied separately for an SBA loan and a grant to replace a 1967 Cadillac which he claimed as having been destroyed during the storm. He received a \$1,300 loan from SBA and a FEMA grant for \$1,680. Both of these cases demonstrate a lack of coordination between the agencies responsible for providing disaster benefits.

We questioned the award of a number of grants because of a lack of adequate evidence that there was a serious need or necessary expense as required by Federal statute. In other cases, we questioned the eligibility of the grant recipients.

For example, a grant of \$5,000 was made to repair a seawall allegedly damaged during the storm. The official who inspected this property to verify the loss established that no need for a grant existed. We could not determine the basis for proceeding with the grant award.

We also identified cases where applicants submitted false or conflicting information to support claims. In one such case, a family received a \$9,600 SBA loan, including \$4,475 for structural repairs to their home. The family advised us that a certain contractor had made these repairs.

The contractor told us he gave this family a \$5,325 estimate for the structural repairs and a notation stating "Paid in full."

SBA accepted the estimate as evidence that the work was done and made a disbursement based on this evidence. The contractor informed us that he had not done the work and that the "Paid in full" notation referred to his receiving \$25 for providing the estimate. Moreover, the contractor said he had given similar estimates to from 15 to 20 disaster victims, but had actually done the repair work in only two cases.

We identified other problems related to FEMA's administration of the individual and family grant program. For example, grants were awarded when applicants orally declared that if they were to

receive an SBA loan, they would not be able to repay it. These applicants were not required to submit financial information, therefore, SBA could not verify their financial status.

In one of these cases, an individual, after receiving a FEMA grant for \$4,286 based on an oral declaration of his inability to repay a loan, reapplied for and received an SBA loan.

Also, we found a number of problems in the award of transportation grants by the State of Massachusetts under the individual and family grant program.

Because of the various problems found——

Senator MURKOWSKI. Excuse me.

I am sorry, Mr. Eschwege, but we have a vote and we have a 5-minute call. So I will recess the start of our committee hearing this afternoon to the call of the Chair as soon as I return.

[Brief recess.]

Senator MURKOWSKI. Thank you for your perseverance.

We will proceed, Mr. Eschwege.

You were in the middle of your testimony, which I find very informative.

Mr. ESCHWEGE. I am on page 6 of my statement.

Because of the various problems we found in Massachusetts, we referred many of these cases to FEMA and SBA for followup action. And because of the fraud potential, we referred 33 of the cases to the Inspector General of SBA or FEMA.

As of May 1980, 10 of the 33 cases in turn had been referred to the Office of the U.S. Attorney in Massachusetts or the Massachusetts attorney general for appropriate action.

Also, FEMA has now taken several actions in response to our recommendations.

Another report which we issued in March 1980 entitled "States Can Be Better Prepared To Respond to Disasters" deals with a review we made in six states: New Hampshire, Connecticut, Georgia, Mississippi, Oklahoma, and Missouri. In this review, we disclosed that State emergency plans assigned State agencies responsibility for various tasks, but did not contain adequate procedures for carrying out the tasks.

The development of adequate implementing procedures by State agencies is vital to a State's preparedness for responding to a disaster.

Without procedures, an agency may implement the tasks in an untimely, inefficient manner.

In five of the six States we visited, emergency plans in most local communities either needed to be revised to conform with the State emergency plans or had not been reviewed by the States to determine their conformance with State plans. Local plans in one of the six states, that is, Oklahoma, were said to be in conformance with the State emergency plan.

We also looked at training, training for disasters is particularly important where the tasks assigned to States and local personnel by emergency plans differ from their regular duties. However, FEMA had not determined minimum disaster training needed by State and local personnel, nor had FEMA provided States with training standards which would better assure an adequate level of performance during a disaster.

As we recommended, FEMA provided each State Governor a copy of our report along with a letter emphasizing our findings and recommendations regarding implementing procedures, local emergency plans and training.

FEMA also agreed with our recommendation to place a higher priority on States using FEMA grant funds to monitor completion of the development of State agency procedures for disaster tasks assigned by the State emergency plan, the development or revision of local emergency plans to assure their compatibility with the State emergency plans and the development of training programs for State and local personnel.

FEMA issued a statement of training and education requirements that includes the scope of training needed and performance standards.

In August 1979, we reported on FEMA's reimbursement policies for snow emergencies. Our review involved two adjoining States, Indiana and Illinois, that were affected by the same snowstorm, but only Illinois received Federal emergency assistance.

We identified problems in FEMA's snow removal reimbursement policies and made several recommendations to correct these problems.

FEMA subsequently revised its guidelines on snow emergencies and thus resolved some of the problems we had identified. I would like to highlight two of the problems still not resolved.

The first problem is concerned with granting Federal assistance in snow emergencies without adequate information as to whether States and local governments can use their own resources to respond. The Disaster Relief Act of 1974 intends that Federal funds should not be disbursed to the extent that the State can use its legally available financial and physical resources.

Yet, to insure that a State has fulfilled its obligation, a time-consuming examination of the State's financial condition is necessary. Time may not be available for such an examination when a State requests Federal assistance. Therefore, we recommend that the Congress enact legislation to require future snow removal reimbursements to be in the form of loans rather than grants and give FEMA the authority to forgive emergency snow removal loans to the extent that a subsequent detailed examination discloses that a State could not otherwise afford the cost of snow removal.

FEMA disagreed with the recommended changes and pointed out several potential problems with changing the form of Federal assistance available for snow emergencies. However, we did not believe that these problems were insurmountable. Our recommendation has not been enacted into law.

Another problem identified concerns inequities in the Disaster Relief Act of 1974.

Our report recognized that the act unfairly penalizes or rewards States applying for Federal snow removal reimbursements because of differences in State laws and States' preparedness to deal with emergencies. For example, if a State's constitution allows the use of surplus funds for snow emergency, that State would not be eligible for Federal assistance if it had adequate surpluses. However, a State whose constitution restricts the use of its surplus funds

would be eligible for Federal assistance even though it maintained adequate surpluses.

We recommended that FEMA prepare a comprehensive analysis of the impact of these potential inequities on Federal disaster systems and submit a detailed plan and legislative changes to the Congress to correct such weaknesses in the act.

FEMA agreed that inequities exist in disaster relief because of differences in State laws, fiscal procedures and flexibility in allocating funds. FEMA agreed to conduct a study if directed by the Congress to do so.

The recommended analysis has not been undertaken to date.

We are currently reviewing FEMA's disaster declaration process which leads up to the President's declaration of a major disaster or emergency. Our work to date indicates that the severity and magnitude of a disaster are reasonably determinable by FEMA in terms of damages, losses, hardship, and suffering. However, FEMA's ability to determine whether the severity and loss is beyond the capability of State and local governments, and whether State and local governments have made a reasonable commitment of their resources is principal concern to us at this time.

Recently, FEMA adopted a cost-sharing practice of requiring State and local governments to pay 25 percent of eligible public assistance costs. A number of States have expressed opposition to this practice. Legislation requiring this cost-sharing practice has been submitted by the administration to the Congress.

We are also examining the issues pertaining to State and local commitments in our current review.

Also, We are currently reviewing Federal disaster assistance provided to States and local communities.

Finally, we are currently reviewing the Federal response to the Mount St. Helens eruptions. Our review is a case study to determine if there are emergency preparedness lessons to be learned from this unusual disaster and whether actions taken or planned can minimize similar future problems.

Mr. Chairman, I haven't read my entire statement. I have provided you here with a summary.

I would appreciate if the entire statement could be made a part of the record.

We shall now be pleased to respond to your questions.

Senator MURKOWSKI. Thank you, Mr. Eschwege.

Your entire statement will be included in the record.

I thank you for your excellent and well prepared comments. There are a number of questions that I would like to propose to you and to your associates, Mr. Wood and Mr. Morgan.

You State that you are currently reviewing FEMA's declaration process under the act. Your study of this matter would be timely and, of course, the committee is increasingly concerned that the act is being expanded to cover almost any type of emergency imaginable. GAO has considerable experience with the act, as is evidenced by your testimony.

I would be interested in your interpretations. In the past has the act, in your opinion, been liberally used for most emergencies or has it generally been restricted to natural disasters?

Mr. ESCHWEGE. Well, this is part of the current review that we are undertaking to see how agencies and the White House have made a determination that a particular request for assistance should be honored or declined.

In terms of the past, I know we are dealing with a definition of the Disaster Relief Act which has given some people some problems. It defines major disasters as hurricane, storms, floods, earthquake eruptions and, I believe it goes on to say, or other catastrophe. It is this or other catastrophe phrase which has at least been interpreted by the administration, I might say the past administration, as also allowing them to provide assistance in the Cuban refugee influx as well as the Love Canal problem. While we have not really officially ruled what all goes into this definition, I think as a layman I would say that there is probably good cause for going that way, that the other catastrophe seems to encompass a lot of things. As I say, this is not a legal opinion on our part.

Senator MURKOWSKI. Is your forthcoming study going to address the issue of how broad the interpretation has been in the past?

Mr. ESCHWEGE. Yes, it does.

Senator MURKOWSKI. And perhaps give an opinion on what guidelines should be established?

Mr. Wood?

Mr. WOOD. It raises an issue that the Congress needs to clarify what it really means as far as other catastrophes.

Senator MURKOWSKI. You feel in reauthorization there is a necessity, I assume, to get the best return to the Government for services expended, to tighten up on the program, reduce the exposure for fraud, and this could be done, I assume, by defining some of the parameters of disaster.

Mr. ESCHWEGE. I think maybe there are two questions here, one as to the definition; since there are these differences of opinions, I think it would be well, as long as you are authorizing additional legislation here, that you would define it. It is a matter of policy, really, for the Congress to decide how narrowly you want to define it.

With respect to fraud and abuse, I think that is a different matter that can be taken care of through better coordination, better monitoring, tighter controls over the funds that you disburse.

I should add that FEMA is going in that direction. They have recently reorganized. SBA has been testing out along with FEMA a type of a one-stop service, almost, where instead of the individual applying to a whole bunch of Federal agencies or units, they would come in with one application and say, "I have lost this Cadillac," or "I have lost my home and I need relief." In that way, I think we can get the kind of coordination, if that can be worked out, that will avoid a lot of this.

Senator MURKOWSKI. Is it your opinion that FEMA can dictate the terms of Federal interagency cooperation such as HUD and SBA to require that there be an exchange of information as far as the ability to meet the criteria of one program or another so we don't have a duplication of somebody taking advantage of both programs.

Mr. ESCHWEGE. I think it takes cooperation——

Senator MURKOWSKI. My point is: Can FEMA, by directive dictate to a Government agency that they must coordinate with another Government agency, or does this have to be done by regulation?

Mr. ESCHWEGE. I don't think FEMA has that kind of power. I think the President is the only one who can really step in and require that.

Senator MURKOWSKI. Your knowledge of the authorization expiration of September 30 is one that gives evidence to the fact Congress is going to have to act expeditiously. Tell us when do you expect to complete your study?

Is this a firm date?

I feel we must have the benefit of your study prior to the reauthorization of the program.

Mr. ESCHWEGE. Even though our study now may not be completed until October, we can get together with you at your convenience to brief you on what is in that study in order that this subcommittee can have the benefits as soon as we recognize—this will give you the views as we have them now, and a few things can change. But we want to be as helpful as possible.

One reason why it won't be ready until October is we have been somewhat delayed. Aside from that, we still want to give FEMA and other effective agencies an opportunity to comment.

Senator MURKOWSKI. When in October do you anticipate it being done?

Mr. ESCHWEGE. I think it will probably be the latter part of October.

Senator MURKOWSKI. But it will not be early November?

Mr. ESCHWEGE. Well, now that you are suggesting it, I will make every effort to make it the latter part of October.

Senator MURKOWSKI. Well, I could have said late September.

Mr. ESCHWEGE. Yes, but you didn't say what year.

Senator MURKOWSKI. No, but I will.

It is my understanding then briefings will be available to the committee staff prior to that time and I assume you will be briefing FEMA as well.

Mr. ESCHWEGE. Yes, we will be. They will actually get the draft.

Senator MURKOWSKI. What can you say about the State's commitment of their resources in a disaster? Has it been adequate in the past? Should the State and local jurisdictions share more of the cost burden? And has the 25-75 percent cost arrangement in the Mount St. Helen's disaster worked well?

Mr. ESCHWEGE. Let me make some general statements and then maybe my colleagues would want to elaborate.

I mentioned in my testimony the snow removal problem. It is a real problem in terms of deciding when the State and local resources have run out and the Federal Government should step in this in order to alleviate the emergency. The problem that we have had is that State laws vary so much, whereas in some States, the surplus is available to help out. In other States it is not.

Also, the taxing structures of different States are different and, therefore, some States may be able to have more funds available and there are inequities because of that.

As to the 75-25 split, we have other congressional requests to render an opinion on that, whether FEMA acted legally when it administratively decided to go to that policy. We are trying to work on that and include that in our report that we promised you at the end of October.

Senator MURKOWSKI. So you are suggesting this 75-25 was an administrative decision of FEMA's?

Mr. ESCHWEGE. It is an administrative decision.

Senator MURKOWSKI. And that is all.

Mr. ESCHWEGE. The question is whether it is legal.

Senator MURKOWSKI. I would assume if they can, in effect, cause a contribution arrangement by regulation or dictate. I would certainly think they could do the same thing with another Government agency in requiring that communications exist so applicants would show there is no duplication. That is just a sidelight of my own observation.

In your review, do you have any knowledge of the Federal Government paying for perhaps bigger and larger expanded public facilities that did not exist before the disaster?

Mr. ESCHWEGE. We have had, in the past, some reports that got involved in that where the Federal Government would, in fact, allow expanded facilities to be built after a disaster. We, for instance, looked, Mr. Chairman, at the Alaska earthquake. Now this goes back quite a ways, as you know.

Senator MURKOWSKI. Yes.

Mr. ESCHWEGE. We came out with a report then—I believe it didn't come out until about 1968—in which we had some problems in connection with the way these expanded facilities were financed.

Senator MURKOWSKI. So the implication is that on occasion they may very well have been—

Mr. ESCHWEGE. Yes, and I know there are some bills to try and avoid that in the future.

Senator MURKOWSKI. You indicate in your opening remarks that you felt assistance can be provided in the form of loans, grants and insurance for losses from national disasters. Did you imply in the reference to insurance anything more than the conventional owners insurance or are you suggesting expansion of, say, the federal assistance flood program?

Would you care to elaborate a little? Maybe there is more to that than I am reading.

Mr. ESCHWEGE. No; I don't think there is. We did do a study to try and find out which would be the most equitable way in sharing the burden of these kinds of losses, and we concluded, partly because of the flood insurance program, that insurance would tend to be the best way to run the program provided people don't take undue advantage of it and provided the premiums are so structured that someone, let's say, in Alaska, doesn't have to pay a high premium because someone in some other state is continuously rebuilding in the flood plain.

So what we are really saying is insurance programs, from the Federal point of view, from the taxpayers' point of view, is probably the one that costs us the least.

Senator MURKOWSKI. I think we all generally understand insurance is applicable on the flood program, but let's take earthquake

insurance as an example. The hazards are there. Some areas are much more earthquake prone than others. It is in those areas of high incidence that the premium rate is substantial.

Some lenders require it, some don't. How would you suggest that we get into an insurance program to begin to look at some of these hazards, tornadoes, for example? I assume the insurance is available. Its costs are substantial in those areas that are exposed.

Are you suggesting a broader type coverage with Federal participation?

Mr. ESCHWEGE. Well, as you know, the only big experience we have had is with the flood insurance program. I haven't really thought through how you would do it with earthquakes because fortunately they are more limited in terms of geographic—

Senator MURKOWSKI. In your report, rather than belabor it now, I would appreciate a portion, at least a few paragraphs, on how you feel the insurance application might be broadened with or without Federal assistance to offset some of the exposure that we find ourselves in now with the other alternative, which is either direct Federal funding or forgiveness of loans or 25-75, because I think there in lies an avenue that deserves considerably more searching for more applicable applications, if you will.

Mr. ESCHWEGE. Mr. Chairman, I had it in my statement but I didn't read it. We did issue a report on what should the policy be of Federal disaster assistance. I think this might be a helpful document, although we will also consider what else we can put in our upcoming report, but this particular report which came out just about a year ago deals with the forms of assistance available and what the policy might be. Of course, we don't make the policy, but we are suggesting in here a number of things and we examine loans versus grants versus insurance.

I think we will review this one and see what else you might need and might want to talk to the staff about.

Senator MURKOWSKI. You might just take a hypothetical case of what the budget is for FEMA and project it towards a contribution to premiums, if you will, just to see an example of what Government contribution similar to the flood program might be to see how far, say, half the budget would go to cover what portion of the Federal Government's contribution to the program. I don't have any idea. It might be totally irrelevant.

Mr. ESCHWEGE. We do have some actuaries in our office and I will consult with them and see if I can get back to you on that.

Senator MURKOWSKI. You indicated that you found a lack of coordination among the Federal agencies, and you indicate other weaknesses in administering the disaster assistance program. The coordination of personnel in a very short timeframe is understandable. But in view of the substantial experience that FEMA has in this area, it would seem the inexperience factor would perhaps be lacking. I am curious to know, since we have these regions established around the United States and probably a relative degree of experience in implementing disaster assistance, why this lack of coordination is in existence. Could you highlight why?

Mr. ESCHWEGE. Well, I think we are talking about a time when FEMA was in its infancy and FEMA, of course, was established to try and coordinate further. Part of it also is training, as we pointed

out. You are correct, once a disaster strikes, it is too late to put procedures in place. But you can train ahead of time, you can have mock type of disasters, you can have State plans, as we pointed out, and local plans, especially in those areas where you are very much prone to have disasters and emergencies.

I think by and large FEMA is addressing our concerns and so is SBA. Those are the two biggest agencies involved. We heard from the Department of Agriculture, specifically the food stamps program, that they will also try to align their operations better so that not just everyone qualifies for food stamps. There is movement. I think our report and hearings such as this will help get them in line.

Senator MURKOWSKI. Mr. Eschwege, you indicated that out of 3,400 cases you found 913, or 26 percent, in which there was questionable activities associated with the benefits. In that sampling, could you tell us whether that included a nationwide sampling of different types of disasters in different areas of the country?

Mr. ESCHWEGE. No, this was a sample of that particular disaster, a blizzard, in Massachusetts. And actually there were in excess of 9,000 applicants.

Senator MURKOWSKI. In that blizzard?

Mr. ESCHWEGE. In that blizzard. We concentrated on only those 3,400 or so cases where there were either duplicate payments likely because applicants applied to more than one agency or where they applied for grants as opposed to loans.

Senator MURKOWSKI. You don't know if those figures are reflective in a percentage application of the general questionable benefits that might surround recipients in—

Mr. ESCHWEGE. No.

Senator MURKOWSKI. Would you say it is a fair sampling, representative or not representative?

Mr. ESCHWEGE. It is a statistical sample of that one disaster, but not in terms of the whole universe of the United States.

Senator MURKOWSKI. That is my question. In the whole universe of the United States, to use your terminology, would you say that would be a fair percentage or an unfair percentage? Do you have any opinion on it?

Mr. ESCHWEGE. I have no—

Senator MURKOWSKI. Will your report indicate any opinions on what you feel a fair percentage of questionable grants might be?

Mr. ESCHWEGE. No, not overall.

Senator MURKOWSKI. Have you done a sampling other than within the questionable snowstorm that occurred?

Mr. ESCHWEGE. No, this was requested by a subcommittee and they just wanted to know what the situation was in Massachusetts.

Senator MURKOWSKI. So if that committee were particularly interested in knowing what the percentage might be of questionable grants in the whole program throughout any given time—

Mr. ESCHWEGE. We could not tell you. We can tell you, however, that there are certain procedures which should be in place which are not in place, which make it more likely that these sort of duplicate payments we found in Massachusetts are also found elsewhere, but the magnitude of it I cannot tell you.

Senator MURKOWSKI. I assume a FEMA time moves into the disaster area and sets up the coordinating activities and temporary quarters and begin the process of responding to those that have suffered ill fortune and, you have indicated that in some cases, there are situations where payment is received that are not disaster-related. Is that usually because FEMA does not have an adequate number of people processing claims or is it lack of followup or is it poor operating procedures with undefined policy requirements?

Mr. ESCHWEGE. No; I think in the case of Massachusetts, FEMA moved in and then the other agencies moved in quickly. I think the people were generally satisfied with how they operated. I think, as I pointed out in my statement, there is always that problem of really weighing how much verification you should do before you pay out to people and what seems to be the need to get things out in a hurry.

Senator MURKOWSKI. In your professional opinion, with your overall responsibility in the General Accounting Office, I am curious to know if you feel FEMA has the built-in safeguards within the dictated policy flexibility that they have to make sure there are no grants being awarded without adequate need, that are not truly disaster related, that repairs to seawalls actually occurred during a storm—these are checks and balances that are within the prudent application of Federal funds.

Mr. ESCHWEGE. That is correct. My opinion is that FEMA and SBA, and I am going back to what they did in Massachusetts—

Senator MURKOWSKI. When was this snowstorm, I might ask?

Mr. ESCHWEGE. This was several years ago in 1978, but we went in after the fact to look at it. They had still, at the time we issued the report early this year, not had all the procedures in place which we felt are needed to minimize the kinds of abuses that have occurred.

We are saying in the report we don't expect zero percent of duplicate payments, but 26 percent, this is what we found up there, seems very high and there are things you can do before the disaster strikes to avoid this sort of thing. We don't want to hamstring the operation in terms of slowing it down, but there are a lot of things you can put in place ahead of time.

Senator MURKOWSKI. When you investigated the snowstorm disaster of 1978, did you have occasion to sample whether there were a great number of claimants who were unhappy with the settlement?

Mr. ESCHWEGE. No, they were not.

Senator MURKOWSKI. I am not surprised.

What is the average time on claims? I am curious to know because I think the relevancy is proportionate to the investigation that would be expected to take place.

Mr. ESCHWEGE. I am not sure I can give you an average time. I think it varies by programs.

Food stamps you give out right anyway. They just give them out. In the case of rebuilding some of the facilities, that probably took a little longer.

I can research it. I am not sure I can give it to you right here on the spot.

Mr. MORGAN. We do have some information on the SBA loan program in the back of that particular report which shows the average time and there were some significant delays in getting out the loans in that particular disaster. In fact, that was the biggest complaint we had in talking to some of the victims, is the delays that they encountered in getting the money from SBA to rebuild their homes.

Senator MURKOWSKI. You indicated that of five of the six States visited, emergency plans in the community either needed to be revised to conform with State emergency plans or had not been determined by the States to their conformance.

Is there some continued effort on behalf of FEMA or initiating from FEMA to make sure these States do comply?

Mr. MORGAN. I think that this is basically left to the States as a State responsibility to basically insure that local emergency plans are in conformance. The States were prepared to actually go out and check upon and assist local communities in revising their local plans in accordance so they would conform with the State emergency plan. And most State emergency plans had recently been under development or had been recently developed so that they had not gotten to the point that they were out there looking at the local plans as of yet.

Senator MURKOWSKI. In your opinion, the five of these States then are basically not in conformance?

Mr. MORGAN. At the time.

Senator MURKOWSKI. Are they in conformance now?

Mr. MORGAN. I am not sure.

Senator MURKOWSKI. Do you know if any States are not in conformance now?

Mr. MORGAN. I am not sure.

Senator MURKOWSKI. I would appreciate it, if in your report, and I don't expect you to go through them all, but if any States are not in conformance, it would be appreciated if you include them in your report.

Mr. ESCHWEGE. We will do that.

Senator MURKOWSKI. I have another question. This one came from Senator Gorton from the State of Washington. He would like to know when your study on Mount St. Helens will be released.

Mr. ESCHWEGE. That study is really still in its infancy. We are at a decision point at this time to decide whether we are going to get into a full-fledged review of all the activities out there. As you know, there is close to a billion dollars authorized. It turns out they do not need all this money.

Senator MURKOWSKI. Good.

Mr. ESCHWEGE. I think we are talking more in terms of half a billion dollars right now.

Senator MURKOWSKI. Should I tell that to the Senator from Washington or not?

Mr. ESCHWEGE. I think yes, you can tell him that. We are looking at that a little bit differently right now in terms of, for instance, what is going to happen to all those funds that have been authorized.

Are they just going to be available to the agencies for other activities or are they going to be moved back into the Treasury? We

should know a little bit more about where we are going on that, as I say, it is only in its infancy, within the next month.

We will be very glad to brief you or the Senator on the results of the appraisal.

Senator MURKOWSKI. Thank you.

GAO is reviewing, it is my understanding, the declaration process for disasters. What level of disaster would the Cuban relief problem be in comparison to the snowstorm in Massachusetts?

Mr. ESCHWEGE. Mr. Chairman, I am not trying to evade your question, but this is exactly the problem we are having. The agency does not have criteria to really rank the degree of disaster. I am not sure that that is a criticism of the agency. I am not sure they can really do it. They come at different times, and there are different situations. I don't know how we are going to come out on that, really.

Senator MURKOWSKI. It can be construed in your presentation, if one were to read it quickly and in general terms, FEMA is acting on occasion without the usual procedural application which I assume comes from the Governor requesting the President to declare a national emergency and then FEMA moves in.

Are you implying perhaps that FEMA moves into some areas without that?

Mr. ESCHWEGE. No; our preliminary information is that FEMA is getting pretty good data on what the disaster is all about. It has a number of sources, including its own Federal sources. The Weather Bureau indicates floods, and so on, tornadoes, and it is getting that kind of information.

In terms of how then to put this all together and apply some criteria as to whether this is a major catastrophe or something less—

Senator MURKOWSKI. In no instance are you aware of FEMA moving in without a disaster having been declared by the President?

Mr. ESCHWEGE. No.

Senator MURKOWSKI. You indicated two States had received the results of the snowstorm, but only one received Federal emergency. Why didn't the other ones? Didn't they ask for it?

Mr. ESCHWEGE. This was Illinois and Indiana. In the previous snowstorm the reverse was true, Indiana got assistance and Illinois did not. I think FEMA may be quite ready to admit that at one point in time they did take that into consideration. If a State had gotten previous emergency assistance, then maybe they shouldn't get it again. They have since gone on record to say that that will not be a consideration.

Senator MURKOWSKI. On page 11 of your statement, this is recommended: That Congress enact, you say give FEMA the authority to forgive emergency snow removal loans to the extent a subsequent, detailed examination discloses that a State could not otherwise afford the cost of snow removal.

How is that determined in a relatively short period of time?

Something has to be done, somebody has to authorize expenditure.

Mr. ESCHWEGE. This is why we made that recommendation. We think if they come in and there is some evidence they need the

funds, they ought to be given to them on a loan basis and then after the fact you can go in and determine whether surplus funds were really available to have financed this sort of activity. In the case, again, of Illinois and Indiana, I think one of the problems was that Indiana immediately went out on its own and kept the roads open. Illinois didn't. When they saw that Indiana had already opened the roads, they said, "Well, no more need to give you funds. You have already done the work."

Senator MURKOWSKI. It would appear since the act intends Federal funds should not be disbursed to the extent you state in your testimony, the State can use its legally available financing and physical resources, this can get a little sticky in the case where one State goes out and takes the problem and another who sits back and says, "Well, if we sit here we will probably receive some Federal assistance." In that case, if you would apply your theory of providing the funds, then both States would have probably qualified for reimbursement.

Mr. ESCHWEGE. Well, I think you would make an examination after the fact and it would be up to the FEMA Director to decide whether he would waive repayment of the loan.

Senator MURKOWSKI. Those States would not argue the point they could not afford it.

Mr. ESCHWEGE. Yes, but I think there is evidence available as to whether there are surplus funds in the State and whether or not this is an extraordinary snowstorm or simply the normal kind of snowstorm you would expect in States like Indiana and Illinois.

Senator MURKOWSKI. I have just a couple more questions and then I will conclude.

Would the GAO suggest the Congress have a review responsibility after a declaration of a disaster? How can Congress control the funding expenditure—it is very difficult to budget for disaster.

Mr. ESCHWEGE. I think the Congress always has a review authority after the fact, but I do not think the Congress would get into it, that it would want to get into the determination initially.

This seems to be an executive branch activity. I think oversight on the part of the committees can help make that determination sharper and more valid.

Senator MURKOWSKI. I don't think there is any question that it is in the Office of the Chief Executive Officer to declare, if an application comes in, the appropriation process and, working with FEMA, to maintain some continuity in communications to the application.

In terms of Federal loans to States and local governments, since the inception of the application, how often do these types of loans get repaid?

Mr. ESCHWEGE. On any program?

Senator MURKOWSKI. Just the experience that we have seen with FEMA since they got into the loan program to States and local governments.

Mr. ESCHWEGE. I don't have the statistics—

Senator MURKOWSKI. Do you have those figures available?

Mr. ESCHWEGE. In the past, I personally looked at some loans that were advanced in connection with the housing programs, for instance. By and large they were repaid.

I don't know if any of my colleagues have looked at any others, but—

Senator MURKOWSKI. Could you provide us with just some general loan totals, these would be for Federal loans to States and local governments in association with the application of FEMA?

Mr. ESCHWEGE. With respect to FEMA only?

Senator MURKOWSKI. Yes, and what the status is.

Mr. ESCHWEGE. I am not sure they make loans.

Senator MURKOWSKI. They don't make loans, then. There is no application to any Federal or local—

Mr. ESCHWEGE. No.

Senator MURKOWSKI. Loans are only made on the individual—

Mr. MORGAN. There is a minor program they have where they make some loans but there is very little activity under that particular thing. This has to do with loss of the tax base of a community after disaster.

Very few communities qualify. As we understand it, there is not much money involved in it.

Senator MURKOWSKI. Have you examined the current or the past policy of FEMA with regard to assistance in housing associated with disaster, temporary housing, mobile homes?

Mr. ESCHWEGE. We talked in this report on Massachusetts on repairing housing. I recall an earlier study we did on the flood, the Agnes situation. I guess it was back in the early 1970's, where we did get into the housing area.

I cannot give you the particulars, but I can furnish it to you. I know there were some questions, for instance, about all the mobile homes that were bought and how they were finally used and eventually disposed of.

Mr. MORGAN. Massachusetts was involved with temporary homes. There were no mobile homes involved. They were provided mainly rental housing and this minimal repair program, that was a temporary housing type program.

Senator MURKOWSKI. Is it a function of GAO in a report like this to give some kind of a financial report of the agency?

Mr. ESCHWEGE. It is not a specific statutory requirement. The only function we have is on corporations to give opinions on their financial statement.

Senator MURKOWSKI. Do you have flexibility to determine whether it is appropriate for a particular agency that may have, by the very nature, application of what it does, would you show a listing of the fixed assets of a Government agency, a Government agency could very well have substantial fixed—

Mr. ESCHWEGE. We do have basic legislative authority to look into that sort of thing.

I might add another one of our groups has been asked to look at FEMA right now, and because there has been a change in administration to review their financial—

Senator MURKOWSKI. Federal administration?

Mr. ESCHWEGE. Yes, to review their financial management at this time. In other words, the new FEMA Director wants to be sure he is taking over an agency that has a sound financial management system and we are assisting him with that based on a congressional request that we have gotten.

Senator MURKOWSKI. But you don't do this in the normal course of your review of Government agencies?

Mr. ESCHWEGE. We have done it on our own in some of the agencies.

Senator MURKOWSKI. Only on request?

Mr. ESCHWEGE. No, on our own, too, without a request. I can recall work that we have done in the FCC that looked at some of these things.

Senator MURKOWSKI. Are you going to issue in your report a list of FEMA's fixed assets?

Mr. ESCHWEGE. Not in the one we talked about earlier, but this effort I just mentioned—

Senator MURKOWSKI. Through another branch of GAO.

Mr. ESCHWEGE. Through another group in GAO, we will be looking at the status of financial management, financial transactions in FEMA, and I am sure when it is finished—it is just starting—can be shared with you if you have an interest.

Senator MURKOWSKI. When do you anticipate that report will be done?

Mr. ESCHWEGE. I cannot tell you, but I can provide it.

Senator MURKOWSKI. Can you find out and report to the committee?

Mr. ESCHWEGE. Surely.

Senator MURKOWSKI. Are you aware that FEMA has any fixed assets or chattels or whatever?

Mr. ESCHWEGE. In the sense they must at least have office equipment and things like that, yes. I am trying to think whether they have anything in the way of unusual assets, mobile homes.

Senator MURKOWSKI. Airplanes, fire engines.

Mr. ESCHWEGE. I don't know.

Senator MURKOWSKI. Mobile homes?

Mr. ESCHWEGE. Yes.

Senator MURKOWSKI. How many?

Mr. MORGAN. I don't know right offhand.

Mr. ESCHWEGE. We can find out.

Senator MURKOWSKI. It is my understanding from the testimony given by the representatives for FEMA they have perhaps as many as 3,000 mobile homes.

Mr. ESCHWEGE. I am just told that is the figure we got.

Senator MURKOWSKI. Do you know where the mobile homes are at? Where?

Mr. MORGAN. Are we aware what?

Senator MURKOWSKI. Where they are located?

Mr. MORGAN. I know they keep them at locations across the country at various spots.

Mr. ESCHWEGE. I am told there are four storage areas. Texas is one of them.

Senator MURKOWSKI. Is it Texas, Texas, Texas and Texas?

Mr. ESCHWEGE. I guess they were looking for space.

Senator MURKOWSKI. We could have helped them out. In your evaluation of Government agencies, is it customary that you would, say, look at FEMA's role as far as an owner of mobile homes and the manner in which they provide housing assistance in emergencies and the difficulties, of course, and the cost associated of

moving them at great distances, and perhaps leasing them in case of emergencies, and do you make recommendations based on facts and knowledge of what it costs the Government to own and store and collect rent against what the private sector could lease through a Government agency?

Mr. ESCHWEGE. Yes; this is definitely within our charter to do.

Senator MURKOWSKI. Have you done this with FEMA in this case?

Mr. ESCHWEGE. The predecessor agency being HUD——

Senator MURKOWSKI. Being who?

Mr. ESCHWEGE. HUD, Housing and Urban Development, I vaguely recall there was some work done in that area on mobile homes, as well as other housing in connection with Hurricane Agnes.

Senator MURKOWSKI. But you don't know what the recommendation was as to whether they should buy or lease.

Mr. ESCHWEGE. I don't know. It has been a long time ago.

Senator MURKOWSKI. It is my understanding that the agency of GAO that is going to look at the financial status of FEMA will take a look at making some recommendations as to the continued advisability of owning 3,000 mobile homes wherever they are.

Mr. ESCHWEGE. I am not sure that is going to be part of it, but if you are interested in that——

Senator MURKOWSKI. Who's responsibility in Government is fiscal management in a case like this?

Mr. ESCHWEGE. Well, the primary responsibility always rests with the very agency that has these operations. FEMA does have an inspector general. OMB has a responsibility and to the extent that we have the resources, we will go into these kind of things. We have a lot of requests from the Congress to do these sort of things that leaves only a certain amount of resources available for us to do, things on your own.

We alone, with the rest of the Congress and other agencies are being cut in our resources. So we have to make trade-offs on the different programs. But we do try to get to these sort of things, not in every agency, but certainly whenever a committee asks us to, and also sometimes on our own.

Senator MURKOWSKI. Thank you.

I want to certainly encourage, Mr. Eschwege, your agency to, recognizing the limitations and demands on your time, to perhaps look at some of the areas that were highlighted today, particularly in the area of mobile homes and any other fixed assets.

I want to thank you and your associates for your excellent testimony and your cooperation in responding to the questions.

The committee will look to you for a good deal of direction, you and your associates in formulating the reauthorization associated with disaster relief.

Thank you.

Mr. ESCHWEGE. Thank you. We are pledged to help you in any way we can.

Senator MURKOWSKI. We will proceed with the next witness, Mr. Robert S. Wilkerson, director, Division of Public Safety Planning and Assistance for the State of Florida, who will be appearing on behalf of the Governor of Florida, Mr. Robert Graham, and the National Governors Association.

I believe sharing the witness table will be Mr. Wilbur R. Buntin, executive director, Kentucky Disaster and Emergency Services, Frankfort, Ky., and who is also the president of the National Emergency Management Association.

Gentlemen, welcome to the Subcommittee on Regional and Community Development.

Would you please identify yourselves—I haven't had the pleasure of making your acquaintance—and proceed with your testimony.

STATEMENTS OF ROBERT S. WILKERSON, DIRECTOR, DIVISION OF PUBLIC SAFETY PLANNING AND ASSISTANCE FOR THE STATE OF FLORIDA, ON BEHALF OF HON. BOB GRAHAM, GOVERNOR, STATE OF FLORIDA AND THE NATIONAL GOVERNORS ASSOCIATION, AND WILBUR R. BUNTIN, EXECUTIVE DIRECTOR, KENTUCKY DISASTER AND EMERGENCY SERVICES, FRANKFORT, KY., PRESIDENT, NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

Mr. WILKERSON. I am Robert Wilkerson, director of the Division of Public Safety Planning and Assistance for the State of Florida. Senator MURKOWSKI. Good afternoon.

Mr. BUNTIN. I am Wilbur Buntin, executive director of Disaster Emergency Services, State of Kentucky, and president of the National Emergency Management Association.

Senator MURKOWSKI. Pleasure to have you with us.

Please proceed, Mr. Wilkerson.

Mr. WILKERSON. Senator, I appear before you today, as you mentioned, on behalf of my Gov. Bob Graham and on behalf of the National Governors Association's Committee on Criminal Justice and Public Protection and, in particular, its chairman, Gov. Robert List of Nevada. I might point out I appear before you as someone personally involved in the Cuban revenue crisis in relation to FEMA. I must point out that NGA has not officially adopted a position on the issue of reauthorizing the Disaster Relief Act, especially the cost-sharing provision. However, in keeping with a suggestion from the House-Senate conference report on HUD-Independent Agency's appropriations of last year, the NGA staff committee has drafted a proposal for the Nation's Governors consideration at their annual meeting in August. This proposal represents input from numerous Governors who have recently written their State delegations about the 75-25 cost-sharing issue when it was being considered by the House.

Let me summarize these letters for you and in turn elaborate on the position which the Governors will be considering.

As you know, cost sharing, 75-percent Federal and 25-percent State and local matching formula for eligible public disaster-assistance costs, has been administratively imposed by the Federal Emergency Management Agency over the last year. This was done without either specific legislative direction.

The statute, Public Law 93-288, allows for up to 100-percent reimbursement for Presidentially declared disasters and emergencies.

Emergencies and disasters happen frequently in our Nation, and the Federal, State, and local governments must share in the responsibility for assisting citizens in times of distress.

The Federal Government responds to these events through the Federal Disaster Assistance Act, Public Law 93-288, which allows for supplemental assistance to states in Presidentially declared disasters.

The National Governors Association commends the Congress and the administration for their assistance and cooperation with State and local governments during emergencies and disasters. All units of government just work together to meet widely varying citizens and community needs during emergency situations.

Governors indicate that they fully support the principle of cost sharing for disaster-related expenses.

My Governor testified before the House subcommittee looking into the cost-sharing issue, that he supports the concepts of cost-sharing accountability.

States generally pay far more than an average of 25 percent of the total costs. Governor Spellman of the State of Washington explained that the Mount St. Helens disaster in a letter to his State delegation as follows: "The Federal Emergency Management eligible costs, \$35 million; for a total disaster cost of some \$44 million."

In this case, because of FEMA's strict application of the 75-25 commitment provisions to only eligible costs, State and local government applicants for the State of Washington received only 75 percent of eligible costs, some \$26.7 million and are left with a balance of \$7.9 million to pay, the \$9 million in ineligible expenses, and nearly \$9 million that makes up the 25-percent share. In other words, FEMA actually pays only 60 percent of the actual costs while the State and local governments pay an actual 40 percent.

Now, Mr. Chairman, to comment on the two pieces of legislation before your committee. S. 1216 would allow the Attorney General of the United States to bring a suit against any party contributing to events resulting in a Presidentially declared disaster or emergency. This seems to be a very good amount to the statute. However, I would caution that the U.S. attorney should not usurp powers and responsibilities of State and local officials but should work in cooperation with them in deciding how to dispose of cases resulting from the amendment.

After all, basic law enforcement is a matter of State and local concern under our federal system of government. Further, I would caution Congress to assure that the debate and discussion on this issue clearly delineates the intent of these powers. For example, is it the intent of Congress that this be applied against third parties which cause disasters or possibly against governmental jurisdictions who fail to mitigate known hazards? Such intent must be clear if we are not later to charge that Federal administrators have violated the purpose of this amendment.

S. 1217 contains the major controversy of this hearing, mandated cost sharing of 75-percent Federal, 25-percent State, or local for eligible costs of a Presidentially declared disaster.

Section 420(b) of this bill to amend Public Law 93-288 is amenable to one of the basic concerns expressed by Governors. It allows the President to advance the 25 percent to the State in the event of concurrent or multiple disasters and emergencies, and very catastrophic situations.

However, I am sure that Governors would question the last sentence of that section which states that: "Any such advance is to be repaid to the United States," because there are some instances in local budgets where they would be unable, within a reasonable period of time to repay those loans.

Mr. Chairman, I wish to defer further comments on behalf of the National Governors Association on S. 1217 until after the Governors have had an opportunity to discuss the ramifications of section 420(b), especially the final sentence at their August meeting.

We will be happy to give a definitive answer at that time.

I would like to depart from my prepared remarks and summarize some of the issues.

Generally, the Governors do not object to the issue of cost sharing, nor do they find particularly favorable the ratio of 75-25, nor particularly unfavorable that ratio. Their concern is over what costs that ratio will be applied and over the issue of the actual impacts of an emergency or disaster situation. They certainly have endorsed full accountability of the utilization of Federal and State disaster relief funds in the application of those disaster relief funds to a sound management policy for the hazards.

As I indicated previously, Governor Graham, in testimony before the House, has advocated a self-insurance program for States to cover those public expenses which generally far exceed the assistance given to individuals in disaster situations.

Any disaster relief program must be predictable and it must be responsive. Clearly history has shown in this country that it must be a partnership between Federal, State, local governments, and private institutions. That partnership must respond in a comprehensive manner to the emergency situation.

The major issue should generally be the impact of the situation, not necessarily its cause.

Our policy within the State of Florida has been, in fact, to leave the situation, the jurisdiction involved, in a better condition than prior to the disaster, better not in terms of restoring public facilities that did not previously exist, but better from a hazardous management standpoint. That is to mitigate with each occurrence the hazard rather than continuing to pay for the same disasters over and over again. We are jointly responsible as State and Federal agencies and must be jointly responsive, responsive in a manner that is not only humanitarian, not only visible, but also consistent with sound management principles and other public concerns.

In conclusion, Mr. Chairman, there are some disasters or emergency situations that are clearly so complex, the procedures and guidelines cannot be formalized or standardized. The appropriate handling of these situations must be negotiated and determined in accordance to the circumstances when they occur. However, administration of the entire disaster relief program should not remain arbitrary on the basis of these rare occurrences. Rather, a standard must be established with rare situations dealt with on an exception to the standard basis. Overall, Congress and the administration should work with the National Governors Association in developing a reasonable and responsible cost sharing policy; These hearings are a giant step in this direction.

We look forward to a continued working relationship in this effort. I appreciate this opportunity to appear before you and will be happy to respond to any questions you may have.

Thank you.

Senator MURKOWSKI. Thank you. I certainly concur in your recommendation. The Congress, the administration, and the National Governors Association certainly appear to have a common interest in this matter and should certainly work to share the responsibility and the costs as well.

I compliment you for your testimony, which is precise and to the point.

Let me ask you, were you in your present capacity at the time the Cuban refugee influx was brought into your State?

Mr. WILKERSON. The title is changed somewhat. I picked up two additional programs.

Senator MURKOWSKI. Did you have any responsibility for responding to the many needs that arose as a consequence of that influx?

Mr. WILKERSON. Yes, sir; I played a very major role in the coordination of the request for assistance and coordination of the actual State and local response.

Senator MURKOWSKI. Was the State of Florida required to participate in any reimbursement to the Federal Government on the 75-25 application or did that come into effect afterward, or did FEMA waive it?

Mr. WILKERSON. The State was not required to participate in the 75-25-percent program. However, the specific assistance provided under the declaration was negotiated and resulted in far less than a 75-25 ratio for the actual expenses involved to the State and local jurisdictions.

Senator MURKOWSKI. You say the actual expenses of the State was far less.

Mr. WILKERSON. The actual expense of the State and local jurisdictions far exceeded 25 percent.

Senator MURKOWSKI. Far exceeded. Perhaps you could speak a little close to the microphone. I have a little difficult time here.

Do you have any opinions as to whether or not this is necessarily a role of FEMA, or would you consider it perhaps an extraordinary inclusion of a situation that is quite unique in the annals of public assistance in the conventional areas?

Mr. WILKERSON. I think, Mr. Chairman, it was an extremely unique situation. I think there was a great deal of forethought at both the State, and Federal level, and within the administration of FEMA as to an alternative approach to the problem.

I think the utilization of Public Law 93-288 was literally a last resort as a mechanism to provide a Federal participation which was initially a Federal responsibility.

Senator MURKOWSKI. Isn't there a Federal Refugee Act?

Mr. WILKERSON. There is specific Federal legislation which precludes State and local governments from participating or operating immigration processes, which is exactly what the State and local governments found themselves forced into the situation of doing due to Federal-foreign policy.

Senator MURKOWSKI. It is my understanding there may have been another alternative agency and the Refugee Relief Act would be applicable.

In any event, it was not funded so it is not germane to consideration.

Do you know if the National Governors Association has any firm policy on the role that they see FEMA as far as putting some brackets around the broad parameters that theoretically are available to the application of FEMA now?

Mr. WILKERSON. It is my understanding that the National Governors Association has advocated a comprehensive emergency management role for the Federal Emergency Management Agency in which they are concerned with that Agency's role in mitigating or responding to impacts, rather than causes.

Senator MURKOWSKI. Impacts rather than causes.

Would you define that a little bit more?

Mr. WILKERSON. The impact of the situation may be beyond State and local governments or beyond normal Federal programs to respond to as opposed to centering the issue on whether the impacts are the direct cause of a hurricane, as opposed to a tornado, or a hazardous material spill.

Senator MURKOWSKI. Can you provide for the committee the position the Governors have taken on this?

Mr. WILKERSON. I can research that with the National Governors Association, provide you with a specific position.

Senator MURKOWSKI. I think that would be very helpful.

[The information requested follows:]

COMPREHENSIVE STATE EMERGENCY MANAGEMENT

In the United States today, hazardous materials accidents are proliferating rapidly, and such emergencies as those created by the Love Canal incident, Three Mile Island, and the Cuban refugee influx are compounding problems caused by the extraordinary upsurge of natural disasters.

Federal, state, and local governments and an overburdened private sector are spending untold billions in disaster response and recovery, and costs are growing.

Comprehensive new ways to eliminate disasters and to reduce the probability of their occurring must be found. Also, improved ways to apply existing resources to unavoidable disasters must be sought. Ready preparedness and response systems are no longer enough in today's world.

It is important that federal, state, and local activities in the comprehensive management of emergencies arising from attack or man-made or natural sources be coordinated. We therefore commend the establishment of the Federal Emergency Management Agency which is responsible for developing and coordinating a national comprehensive emergency management (CEM) program.

We consider the following elements to be critical to a viable federal-state CEM program.

Government Roles and Responsibilities

States recognize that local government has first responsibility in preparation for and response to most emergencies. States encourage local governments to use local resources and to exchange and share resources with other local jurisdictions and with the state. Local governments should review public protection for all hazards and, where needed, upgrade local civil defense workers to comprehensive all-risk emergency management coordinators.

The state's role is to develop and maintain a comprehensive program of emergency management activities that supplements, facilitates, and provides leadership, when needed, to local efforts before, during, and after emergencies. The state must be prepared to maintain or accelerate current services and provide new services to local governments that may be unable to manage all aspects of an emergency. The state also cooperates at multistate levels when appropriate. Further, the state is responsible for facilitating the acquisition of federal assistance for major emergencies.

When states have insufficient resources to manage all prevention, mitigation, preparedness, response, or long-term recovery services themselves, the federal government should provide and coordinate services that are responsive to all types of emergencies and disasters. Such services include fiscal resources, research and dissemination of research results, economic and other impact analyses, information and educational materials, training and technical facilities, equipment, and materials.

In keeping with the concept of a federal-state-local partnership in the consolidation of all-risk emergency management, state and local governments should adopt consistent nomenclature using the words emergency management.

State Emergency Management

Comprehensive state emergency management consists of the judicious planning, assignment, and coordination of all available resources in an integrated program of hazard reduction (mitigation), preparedness, response, and recovery activities for emergencies of any kind, whether from attack, man-made, or natural sources.

While all emergency-related program activities are not the responsibility of one single office, they should be integrated and coordinated. Effective emergency management involves coordination between the Governor's office, the state emergency response office, the state planning office, the state budget office, the state legislature, the emergency liaison officers of a state's line agencies, representatives of local government, the private sector, and the regional office of the Federal Emergency Management Agency.

The state emergency management program should include intergovernmental linkages that (1) ensure that all emergency-related activities are handled at the lowest appropriate level of government, (2) assist local emergency programs as requested and appropriate, (3) facilitate acquisition of needed federal resources to support state emergency programs, (4) encourage multistate resource sharing, and (5) stimulate mutual aid agreements among local jurisdictions to address integrated, four-phase management of all types of hazards.

Sound emergency management requires regular review of the performance effectiveness and coordination of a state's emergency-related program in light of public need and resources utilization.

Role of the Governor

The Governor has the mandated responsibility to promote the general welfare and provide for the common good of the citizens of the state. Because of this, the Governor has special powers and resources that can be used in emergency situations.

Governors periodically should review state vulnerability analyses and ensure that the state emergency management program coordinates long-term mitigation and recovery activities in addition to preparedness and response functions of all agencies for all hazards to which the state may be vulnerable.

The Governor establishes policy and performance standards for the state's comprehensive emergency management program. Just as national emergency management must have the interest, support and confidence of the President, the state emergency management program should have the direct interest, support, and confidence of the Governor; therefore, a state's emergency management coordinator should have direct access to the Governor.

Federal Emergency Management

Only when national preoccupation about disaster response can be balanced by disaster prevention and hazard reduction measures, as well as improved program administration, can an effective emergency management program be built to protect life, property and critical national resources.

The Federal Emergency Management Agency should be directed to expand its mitigation activities beyond flood insurance, dam safety and earthquake reduction to all hazards this nation faces in relation to national and area vulnerabilities. The activities should clearly identify federal, federal-regional, state, local and private sector roles in hazard prevention and reduction, and they should promulgate cooperative support systems including research and training programs addressing the fragmented and little understood mitigation phase of emergency management.

Although FEMA has made substantive organizational strides in its first year, the FEMA director should initiate the following actions to expedite an effective national CEM program:

1. Declare a moratorium on major program shifts until overall all-risk management policy is set;
2. Establish a blue-ribbon federal-state-local-private advisory panel to promulgate short- and long-term agency policy;
3. Convene an advisory committee to review fragmented emergency-related national legislation affecting programs in over fifty agencies and recommend a program for improvements;
4. Initiate a representative task force with strong state and local involvement to develop an effective field personnel and administrative program structure based on the above CEM precepts;
5. Develop and promulgate an active disaster prevention and reduction (mitigation) program.

Adopted August 1980.

Senator MURKOWSKI. In your testimony, you made reference to S. 1216 allowing the Attorney General of the United States to bring suit against any party contributing to events resulting in a Presidentially declared disaster or emergency. You indicated, I believe, that you felt basic law enforcement was a matter of State control and concern.

I wonder, are you questioning the need for this?

Mr. WILKERSON. Not questioning the need at all, Mr. Chairman. I think it is the long, absent provision within the statute, especially if the statute is going to be applied to many industrial-type situations in which you can establish clear third party responsibility for the damages that are incurred.

Senator MURKOWSKI. With regard to the role that FEMA has played in taking care of displaced persons, do you have any feeling as to whether or not you believe the States should be allowed to administer the housing program on a voluntary basis or should it stay Federal?

Mr. WILKERSON. Speaking for the State of Florida, we have taken the position that the State's administration in the temporary housing program should be on a voluntary basis. Because of specific housing problems which the State of Florida faces, we have, over the last several years, found it to our advantage in order to maintain consistency of State housing policy, to simply manage the State housing program ourselves.

Senator MURKOWSKI. Do you know whether or not mobile homes were brought to Florida under the auspices of FEMA for the Cuban refugees?

Mr. WILKERSON. They were not.

Senator MURKOWSKI. Would they have been able to have been utilized? In other words, were there facilities, water, sewer hookup, or would that not have been practical?

Mr. WILKERSON. I don't believe it would have been a practical application. The family size units used were not available and the

facilities for hookup were not available. I think that would involve a permanency of the situation which the local communities would have accepted.

Senator MURKOWSKI. Thank you, Mr. Wilkerson. We very much appreciate your testimony. The record will be open for 10 days. I would appreciate anything you think would be germane to the committee representing either the Governor of Florida and/or the National Governors Association with regard to the subject which is under discussion today.

Thank you.

Mr. Buntin, executive director, Kentucky Disaster and Emergency Services.

Mr. Buntin, you may proceed.

STATEMENT OF WILBUR R. BUNTIN, JR.

Mr. BUNTIN. Thank you, Mr. Chairman.

I am pleased to represent the National Emergency Management Association and to present our position on the proposed amendments to Public Law 93-288 contained in Senate bills 1216 and 1217. Since I represent the directors of the emergency management agencies in the 50 States, the District of Columbia, the territories, and trusts, and the canal area, my remarks comprise a collective opinion.

We are vitally concerned, since these amendments are unique importance to the State and local governments. We deeply appreciate the congressional interest in our comments and the viewpoint of the affected groups within the emergency management's community.

First, I would like to address briefly Senate bill 1216. This bill would bring a new element to Public Law 93-288 and related disaster programs.

The Louisville sewer explosion is probably the reason this bill has been introduced by the administration. We have a third-party responsibility and litigation now in process, but I do voice the concerns of my colleague that we must watch how this will be administered in the future by the Justice Department.

As far as Senate bill 1217, section 3, section 3 will eliminate the existing rent-free provisions of the disaster temporary housing program. We can accept this change as a reasonable measure to reduce costs in a particularly costly program.

Since the cost of accommodations provided for disaster victims is to be based on fair market value as adjusted by financial ability, this change should not impose undue hardships on program beneficiaries. The housing program will remain available and the disaster victims should not be unfairly penalized.

We are, however, deeply troubled by the cost-sharing measures proposed in section 4 of the Senate bill 1217. We are fully aware of the necessity to economize and to keep the Government budget within our means. Indeed, most of us are now struggling with the effects of drastically reduced State revenue, budget deficits, and reductions in funding, staffing, and capabilities.

We do not oppose the efforts to control expenditures nor do we seek a blank check for the programs we manage. Rather, we seek

only support adequate to the basic needs of State and local governments in the time of disaster. We ask that you carefully consider the implications of this cost-sharing proposal and that you direct the Federal Emergency Management Agency to reexamine the issue and clarify questions related to this amendment.

I will address only three aspects of the cost-sharing proposal. First, the issue of commitment; second, the 75-25 cost-sharing proposal itself, and finally, alternatives to that proposal.

The question of commitment of resources by State and local government as established in section 301 of the act has not yet been clearly addressed or resolved in implementing regulations.

The act requires a Governor, when requesting a major disaster declaration, to certify State and local obligations that have been or will be made for the disaster and for which Federal reimbursement will not be requested.

Similar requirements apply for emergency declarations.

State and local commitment must demonstrate that a reasonable share of State and local resources are designated for disaster purposes and are of significant proportion to meet the requirement of section 301 of the act.

The act does not provide details about costs and obligations that can be accepted as commitment of State and local resources. Accordingly, it is reasonable to assume that all disaster-related costs should be accepted as commitment.

The absence of detail and the broad range of possible disaster costs have made administration of this commitment requirement difficult and inconsistent. These problems have been worsened by the politics of disasters and declaration requests. We believe these difficulties are largely responsible for efforts by FEMA to establish 75-25 cost-sharing requirements.

As presented in S. 1217, this cost-sharing proposal would require commitment in terms of costs eligible for FEMA reimbursement while disregarding a variety of other costs such as National Guard activities, State share of IFGP, costs in nondeclared counties, et cetera.

We believe this restraint would not allow adequate credit for many disaster costs. We also believe it would cause serious problems since it would permit no option of flexibility for FEMA to accept other costs as commitment.

Defining and identifying commitment has been one of the most difficult problems in previous disasters. This problem has caused extraordinary friction among Federal, State, and local representatives and has in some cases delayed delivery of crucial assistance.

S. 1217 would establish 75-25 cost-sharing requirements in the law, but does not eliminate existing commitment requirements. This presents the strong possibility, if not probability, that the States may be required to certify commitment under existing requirements and, in addition, accept responsibility for 25 percent of FEMA-reimbursable costs.

This uncertainty is increased by the possibility that FEMA reimbursement will be restricted to specified eligible categories rather than cover all categories customarily available under Public Law 93-288. In these cases, the cost sharing will obviously be accomplished at a ratio much less favorable to the States.

This proposal, we believe, does not solve the problems previously experienced with current commitment requirements. These same problems are likely to occur when FEMA attempts to determine who can and who cannot absorb a 25-percent non-Federal share.

We believe the proposal for cost sharing offers no genuine assurance that the States will be less likely to request Public Law 93-288 assistance. To the contrary, States may be encouraged to buy a cheap declaration by claiming this 25-percent share of FEMA-reimbursable costs as their commitment without using other resources or taking independent actions in disaster response.

We believe the proposed 25-percent share in any truly catastrophic event such as Hurricanes Camille and Agnes, the Appalachian floods of 1977, or a major earthquake would far exceed State and local capacities. The availability of advance funds from FEMA would provide very little relief in such cases. Yet the proposal does not include options or alternatives.

Additional questions are certain to appear following disasters which cause extensive loss of revenue and tax base. Communities involved would, in effect, be doubly penalized by commitment requirements, cost-sharing policy and loss of revenue.

Although we do not oppose efforts to assure equitable sharing of disaster program costs, we believe there are reasonable and manageable alternatives to the proposal in S. 1217.

First, Public Law 93-288 could remain as is in regard to commitment and assistance provided under sections 402 and 419. This preferred alternative would require only that FEMA provide improved definition and enforcement of commitment. The States would welcome clarification of commitment requirements and the equitable and consistent implementation of this law.

If this proposed cost-sharing provision must be adopted, a second alternative could be that the existing commitment requirements stated in section 301 of the act be specifically terminated. This step should be accomplished by deleting requirements for the Governor to certify State and local obligations and inserting language specifying that State and local units must fund 25 percent of FEMA-reimbursable costs.

A third alternative is to permit 100 percent reimbursement for debris removal and emergency measures, as these categories are presently administered by FEMA, while requiring cost sharing for other categories of disaster work.

This distinction among categories is reasonable since permanent repair or replacement generally involves improvement of facilities, while emergency work—debris removal and emergency measures—normally includes only items which must be done expeditiously or temporarily.

It is reasonable to require State and local governments to participate in the costs of improvements. This provision would be accomplished by revision of section 402(e) and deletion of sections 402(f) and 419.

With any cost-sharing provisions, the act must provide a forgiveness capability. Experience demonstrates that single major disasters or sequential disasters can destroy any reasonable capability for State/local government to absorb these costs. The advance of funds mechanism described in S. 1217 would provide no relief in

such cases since repayment would be required. We believe a forgiveness mechanism, with appropriate safeguards, is absolutely essential for truly catastrophic events.

In conclusion, Public Law 93-288 has been implemented in over 200 Presidentially declared major disasters and many emergencies. Difficulties have arisen only in the most recent disasters in which FEMA has unilaterally and arbitrarily enforced 75-25 cost-sharing.

We believe the act, as written, includes ample provisions to assure proper use of State/local resources and adequate mechanisms to assure that Federal aid is supplemental to those resources. We believe the stated purposes of the amendment can be achieved through improved and more consistent administration of existing requirements and by clarification of State and local commitment.

I have attached recommended changes to the language that would clarify the 75 percent cost sharing by the Federal Government.

Sir, it has been my distinct pleasure and honor to appear before you today and I assure you full cooperation of the National Emergency Management Association.

Senator MURKOWSKI. Thank you very much, Mr. Buntin. We appreciate your testimony and look forward to your response of some of our questions.

It is my understanding the House Committee on Public Works and Transportation reported a bill containing a cost-sharing formula. Are you familiar with that at all?

Mr. BUNTIN. Excuse me?

Senator MURKOWSKI. The House Committee on Public Works and Transportation has reported a similar bill containing cost-share formulas. I wondered if it had come across your desk in the State of Kentucky.

Mr. BUNTIN. Yes, it has.

Senator MURKOWSKI. Do you have any application of the formula that we are discussing here with the formula that would be applicable there? The idea of cost sharing puts a burden on the States, but by the same token we would like to think through the osmosis that exists with the Federal Government we would be taking less of your tax dollars away for providing you with what we give you back after we take out the fee for administration?

I am being somewhat facetious but I think you get my point.

Mr. BUNTIN. I believe, if I understand, you are asking me if we are aware of what the House did and how it was addressed there. My colleague and I testified in the House before the Investigation and Oversight Committee.

We do not concur with the action of the House because it moved to another committee there, Water Resources, and the language in that law would require a 75-25-percent share, if we read it the way it is written, of all Federal expenditures, which would include things like the Corps of Engineers, administrative overhead cost of a disaster, Department of Transportation, and all of those costs.

I do not think that they are FEMA-related programs. I think it should be administered under their law and not mixed in with Public Law 93-288 and cost sharing to the States.

Senator MURKOWSKI. It is my understanding the 25-75 is proposed only for debris removal and repair of public facilities.

Mr. WILKERSON. Might I comment, Mr. Chairman.

Senator MURKOWSKI. In 1217, I am referring to—

Mr. BUNTIN. Yes, that is correct.

Mr. WILKERSON. The key difference between Senate bill 1217 and the wording of the House measure is the question that Senate bill 1217 limits eligible expenses whereas in the House measure it considered all Federal expenses but only allowed the State to respond to its 25-percent obligation through eligible expenses.

So, in fact, on eligible projects, the ratio quite possibly would have been in the neighborhood of 60-40 or 50-50 since we would have been making up the shortage on Corps of Engineer costs and FEMA administrative costs.

Senator MURKOWSKI. Have you ever considered why FEMA at some point in time decided to implement the 25-75?

Mr. BUNTIN. Sure; I think that is the direct result of what we testified to here, that they could not address the problem of commitment and this was an easy way out.

Senator MURKOWSKI. Do you think that there is any justification for restricting the area of FEMA's services, so to speak, which would basically put less pressure on their budget, recognizing it is very hard to anticipate budget for disasters, but because of the broad interpretation of what FEMA covers, might it be that an alternative would be more restrictive of what FEMA covers and more liberal with the Federal funding, the cost to the taxpayer might be the same ultimately because it would be covering less?

For example, I assume we spent nearly a billion dollars in the Cuban situation and it is questionable as to whether that was the intent of those that originally designed the FEMA Act. But as a consequence, we are considering now a mandatory 25 percent participation by the State, but we still have the broad exposure of the application of FEMA which we have not addressed.

Mr. BUNTIN. I would say this: I don't think it was the intention of Congress when they wrote 93-288 to address anything of the magnitude of the Cuban crisis. I think it was the only way the situation may have been handled at the time.

I don't think it is the intention of Congress to go that far in that type of situation. I know Bob may not agree with me because he is from the State of Florida, but I don't think that that is a natural disaster, nor manmade one.

Senator MURKOWSKI. My question to you, Mr. Buntin, is more direct. Do you feel that FEMA should have some more restrictive parameters than it presently sees itself responding to?

Mr. BUNTIN. I think there needs to be clarification of intent of that restriction; yes, sir.

Senator MURKOWSKI. Thank you. I very much appreciate your cooperation, Mr. Buntin and Mr. Wilkerson. Thank you.

Thank you, Mr. Buntin. I would ask in the interest of time that perhaps we have the remaining witnesses come up and make their presentations at this time: Mr. William J. Sande, vice president, American Red Cross, accompanied by Mr. Robert D. Vessey, national director of Red Cross Disaster Services.

And we have a lady in our midst: Susan Cady, Leigh University, on behalf of the American Library Association. We welcome you, Ms. Cady.

Mr. Sande, would you identify yourself.

Mr. SANDE. Thank you, Mr. Chairman.

Senator MURKOWSKI. It is a pleasure to welcome you all to the committee. I would ask that you proceed, sir.

STATEMENTS OF WILLIAM J. SANDE, VICE PRESIDENT, AMERICAN RED CROSS; ROBERT D. VESSEY, NATIONAL DIRECTOR, RED CROSS DISASTER SERVICES; AND MS. SUSAN CADY, LEIGH UNIVERSITY, BETHLEHEM, PA., ON BEHALF OF AMERICAN LIBRARY ASSOCIATION .

Mr. SANDE. Thank you.

I am William J. Sande, vice president of American Red Cross. I have management responsibility for the organization's disaster services. With me is Robert D. Vessey, who is the national director of Red Cross Disaster Services.

We appreciate very much the opportunity to appear before your subcommittee as it conducts these hearings related to the Disaster Relief Act of 1974, and other pending disaster legislation.

Mr. Chairman, the subcommittee has our formal statement and I will, therefore, confine my remarks this afternoon to summarizing Red Cross concerns about pending legislation, after which we will be happy to answer any questions you or other members of the committee may have.

Senator MURKOWSKI. Thank you very much.

Mr. SANDE. In the 8 years since the Red Cross appeared before this subcommittee's predecessor when it considered the legislation which became the Disaster Relief Act of 1974, the world disaster preparedness response has been enlarged to include Three Mile Island, Love Canal, a steady increase in the number of evacuation following transportation-related and other chemical spills and the unexpected impact of Mount St. Helens.

These new dimensions of disaster preparedness relief took on a special significance for those of us in the Red Cross because this year marks the Red Cross centennial. It will be 100 years ago this September that the Red Cross was involved in its first disaster relief effort, the Michigan forest fires of 1881, the Red Cross role in disaster relief was formalized by Congress in June 1900, and affirmed by the act of Congress on January 5, 1905, entitled "An Act to Incorporate the American National Red Cross."

This role has been reaffirmed by the Congress in the Disaster Relief Act of 1974, and has been further defined in statements of understanding between the Red Cross and Federal Disaster and Civil Defense Agencies.

The Red Cross also has working agreements with other Federal, State, and local units of government and with 23 voluntary groups involved in disaster. The Red Cross has been consistently recognized by all branches of the Federal Government as the Nation's official instrumentality for bringing voluntary aid to disaster victims.

Since 1881, the Red Cross disaster program has grown to more than approximately 40,000 disaster responses annually. We have welcomed the expanded role of Government in providing disaster assistance for it is no longer possible for agencies supported by voluntary contributions to meet more than the most pressing emergency needs of large number of disaster victims, although Red Cross does try to meet additional needs when Government programs are inadequate or unavailable.

Red Cross also participates in enemy attack related civil defense programs, and is involved with Government in activities related to energy problems, civil disorders, drought, planning for mass repatriation of American civilians living abroad, nuclear accident response planning and planning for major earthquakes.

Red Cross personnel were also extensively involved at Three Mile Island. As a result, the Red Cross has had and continues to have a closeup view of federally funded disaster programs.

We have over the years observed and often experienced the same frustrations which State and local officials and disaster victims have had in dealing with these programs. It has not been easy to overcome the fragmentation of Federal efforts which imposed on the potential and real disaster victims a confusing burden of procedural requirements.

However, remarkable progress has been made in the Federal Government's efforts to bring help to disaster victims in a timely, efficient, cost-effective manner while avoiding duplication of assistance.

We applaud these efforts and the progress that has been made, but we are concerned that this progress not be slowed or even reversed by retrenchments in related programs or procedural programs that add to or perpetuate the burdens of disaster victims.

We also want to express our support for proposals put before this subcommittee that will, in our view, expedite assistance to disaster victims. Specifically, our concerns are as follows:

We have testified in 1973 that giving the section 408 individual family grant program to the States to administer could lead to 50 different programs of varying degree of effectiveness. To some extent, this continues to be the case.

After Hurricane Frederick in 1978, it took Alabama and Mississippi up to 18 months to complete the processes involved in giving grants. In other States, the timelag has been almost as long and even where there is improvement, as in Texas, the time lag after Hurricane Allen in 1980, was 7 months.

We believe these delays are caused in part by the delegation of the 408 grant program to State agencies that are already overburdened or which cannot fund the administrative costs involved.

Therefore, we support proposed amendments to the Disaster Relief Act of 1974 that would provide incentives in the form of a 50 percent reimbursement for administrative costs over and beyond the 3 percent presently allowed for States to complete the program in a timely manner.

Assisted by Red Cross, FEMA has been developing a streamlined application and verification process combined with the individual family grant program, temporary housing and disaster loan programs.

After problems developed during a test of this combined process after Hurricane Allen, the Small Business Administration indicated it wished to return to a separate application and verification process. We urge the members of this subcommittee to use their influence with their Senate colleagues who have jurisdiction over the SBA to the end that SBA continues as part of the streamline process now in development to assure disaster assistance is timely, cost effective and nonduplicative.

We urge also that you take a hard look at H.R. 2997 if and when that legislation comes before the Senate. This bill would lead to higher interest rates for SBA disaster loans and possibly cause additional delays in the processing of application for assistance.

This would add to the financial and emotional burdens of a family's disaster recovery. Because of our interest in hazard mitigation, the Red Cross supports S. 1216, which would authorize the Attorney General of the United States to seek reimbursements of Federal expenditures from parties whose act led to the need for Presidential declaration of an emergency or a major disaster.

The possibility of such legal action and fiscal penalty might be the deterrent that has been missing so far in the effort to mitigate losses caused by unwise utilization of potentially hazardous areas and materials.

We urge you to consider the question of whether the law should hold power companies or other industries working with hazardous materials liable for the cost of emergency services, drills and evacuations related to preparedness and accidents at their plants, or when such materials are being transported.

Just recently, for example, one Pennsylvania county refused to participate in a drill involving Three Mile Island because it did not have the fund to pay for such participation. Who pays for such costs should be clarified in the law.

S. 1217 eliminates the 1 year's rent free temporary housing provided in section 404(a) of the Disaster Relief Act of 1974, substituting a program based on financial ability of the occupant to pay all or part of the costs of temporary housing involved.

We agree that this is sound but we want to emphasize the importance of the words, "to take into consideration the financial ability of the occupant," and urge that an adequate system closely monitored by FEMA be developed to assure that disaster victims are fairly treated and that all other financial obligations are truly considered.

We will cooperate, of course, in every way in this effort. We are concerned also about the movement to give the temporary housing program to the States to implement. We do not believe all States will maintain the expertise properly to administer this kind of complex temporary housing program which may involve rentals, mass movement of mobile homes and extensive home repairs.

We urge the subcommittee to retain in any amendments dealing with this subject language that would make State operations of the program optional with FEMA retaining responsibility for implementing temporary housing when necessary. The flexibility of the present law and regulations should be retained.

We support changing current legislation to give the President the right to designate a Federal Coordinating Officer in undeclared

emergency and disaster situations so there could be an FCO onsite to begin planning for Federal emergency actions and coordinate such actions as initiated to protect and save lives and property, even in the absence of a Presidential declaration.

We are concerned, too, about possible changes in the availability of food stamps or disaster-related unemployment insurance that may result from reductions in the food stamp programs per se, or in proposed amendments to the Disaster Relief Act of 1974.

Any such retrenchments place additional hardships on disaster victims. Some of the actions I have referred to would also mean additional burdens on the limited financial and manpower resources of voluntary agencies at a time when voluntary contributions can no longer be raised in amounts sufficient to meet the kind of needs they once met.

The private sector cannot guarantee its ability to meet such needs if they increase because of reductions in Government funded programs. While we highly support moves to achieve better program administration, increased cost effectiveness and the elimination of possible fraud and the duplication of benefits, we hope this subcommittee will look at the proposed amendments in terms of people who need help, not merely in terms of system and procedure.

This principle has governed the administration of the Red Cross disaster program for 100 years. We invite members of this subcommittee to join us in seeing the outcome of these hearings from that point of view.

We thank you.

Senator MURKOWSKI. Thank you very much, Mr. Sande. I appreciate your testimony. May I ask you, sir, does the American Red Cross receive any Federal funding?

Mr. SANDE. We have received Federal funding under contract where we have been active in such projects as the Vietnamese refugee project and the Cuban refugee project, but we receive no allocation of funds for implementation of disaster services per se.

Senator MURKOWSKI. As a consequence, you are not under any Federal charge in being responsive to accepting any Federal fund for anything other than a contract?

Mr. SANDE. We are not, sir.

Senator MURKOWSKI. The work the Red Cross has done in coordination with FEMA has been, I am sure, extremely broad. However, you indicated you have some 40,000 occasions annually to provide services for and, of course, FEMA has much less than that.

But in your interpretation of the application of disaster aid, do you feel FEMA is within its designed role as far as the broad application of its services, or do you think there needs to be some more definitive aspect to FEMA's services?

Mr. SANDE. I don't feel qualified to comment on everything that FEMA is called upon to do, I believe that our cooperative efforts with them so far has demonstrated to us that what they have done in natural disasters is essential and very probably could not be funded by private agencies.

Senator MURKOWSKI. My question specifically is: Do you feel they belong in all the areas that they serve?

Mr. SANDE. Again, I am not familiar with all the areas they serve in. I understand they have some stockpiling requirements and other requirements with which I have not had direct experience.

Senator MURKOWSKI. Do you think the Cuban refugee program was an appropriate application of FEMA's capability?

Mr. SANDE. I would have seen it as appropriate if there were no alternative methods to handle it.

Senator MURKOWSKI. You indicated in your testimony, "One country refused to participate in a drill involving TMI because it did not have funds to pay for participation in the drill." You indicate this situation should be clarified in the law.

Isn't it generally customary that people will be responsive for their own welfare? We used to have aerial drill. We paid the warden on the block to volunteer services, to pay for his services on behalf of the public welfare.

Aren't these things still in this country generally something that people volunteer for, for the protection and betterment of everyone concerned?

Mr. SANDE. That is my belief and the Red Cross is founded on that belief. However, we did have the case of this one county who apparently through its government said that they could not fund their participation in the drill.

Senator MURKOWSKI. That does seem, indeed, unfortunate in this country that we would not have people volunteering to share the welfare with their fellowman, and perhaps there is more to it than I am aware.

I certainly commend you, Mr. Sande and Mr. Vessey, again, on behalf of the committee who notes the Red Cross centennial. Our best wishes for continued service on behalf of the needs of all Americans and the Red Cross is an outstanding example, I think, of commitment to fellowman without the need for a great deal of government assistance or aid.

I think the Red Cross exemplifies what can be done through the volunteer commitments of people all over our country. I commend you.

I am going to have to be excused for just briefly. We have a vote on and then we will conclude with the last witness. Susan, I appreciate your forbearance.

[Brief recess.]

Senator MURKOWSKI. We will resume the hearing with the last witness, Miss Susan Cady, and I would also thank those who have persevered so far.

Please, Miss Cady, proceed with your testimony and we welcome you to the committee on behalf of the American Library Association.

STATEMENT OF SUSAN CADY

Ms. CADY. Thank you, Mr. Chairman.

My name is Susan Cady. I am currently employed as a librarian at Lehigh University in Bethlehem, Pa. Today, I am representing the American Library Association and one of its State chapters,

the Pennsylvania Library Association, where I serve as Federal relations coordinator for the PLA Legislative Committee.

The American Library Association is a nonprofit educational organization of over 36,000 librarians, library trustees, and public-spirited citizens dedicated to the improvement of library service for all Americans.

The American Library Association has two recommendations regarding the Disaster Relief Act of 1974: First, the eligibility of public, tax-supported libraries for Federal disaster relief assistance be clarified, and second, the law should be amended to include private, nonprofit libraries as eligible recipients, as is done in H.R. 3537, a reauthorization bill pending in the House.

In Pennsylvania and many other States, concerned citizens originally established public libraries many years ago by means of private, nonprofit library associations. These libraries were, and continue to be, free to the public and maintained primarily by public tax funds.

This was such a common pattern in Pennsylvania that over 75 percent of the public libraries today are still connected with private, nonprofit library associations or similar private entities such as trusts. However, about 86 percent of all support for public libraries in Pennsylvania comes from local and State funds with the remaining support raised through local philanthropy promoted by these associations.

In these situations, the library building is often owned by the association and for the association trustees may have legal responsibility for the library's operation. Yet the library clearly serves as the public library for the municipality or area and is frequently so named. It is important that the Disaster Relief Act indicate unambiguously that these public libraries are not to be denied disaster relief on account of their unique historical origins in a citizens movement.

The need to clarify library eligibility dates back to Hurricane Agnes in 1972 under the Disaster Relief Act of 1970. Six public libraries in Pennsylvania were heavily damaged by the flooding that followed Hurricane Agnes. They applied for disaster relief and were declared eligible by the Federal Government.

Their applications for aid were approved and the payments were made. However, 4 years later in 1976, the Federal Emergency Management Agency determined that these libraries should not have been declared eligible and required the repayment of the funds earlier granted to them.

Although serving the public and funded primarily by the public, the libraries were owned and directed by private, nonprofit library associations and privately owned facilities were not eligible to receive grants under the Disaster Relief Act of 1970.

Although the Senate passed bills in the 95th and 96th Congresses relieving these libraries of the need to repay, the issue was not finally settled until last year when the extension of the Disaster Relief Act of 1974 was signed into law on December 22, 1980.

This law provided that the six libraries were entitled to assistance as if eligible under the provisions of the act in effect at the time of the disaster. In supporting the corrective legislation, the General Accounting Office pointed out that the communities in-

volved had acted in good faith and relied upon Federal Government determinations as to their eligibility for disaster assistance in undertaking repair and restoration of their libraries.

Eligibility for assistance under the 1970 act extended only to public facilities belonging to State or local governments. The 1974 act expanded that to include other public buildings including those used for educational or recreational purposes.

The current FEMA regulations state that a public entity is eligible for assistance when its requests are submitted by a State or a political subdivision of the State. Organizations which are formed for a public purpose and whose direction and funding are provided primarily by one or more political subdivisions of the State are normally considered to be public entities.

It would appear that public tax-supported libraries would be eligible under this section, but the more recent experience of another Pennsylvania public library indicates that such is not always the case.

After the Johnstown flood in July 1977, the Johnstown Public Library applied for aid under the 1974 act. The initial FEMA determination denied them assistance because the library is directed by library association trustees. The building itself is owned by the county and the services are primarily supported by public tax means.

Aid was eventually granted, but only after the Pennsylvania attorney general issued a ruling on the library's public status. This example illustrates that even the changes in the 1974 law leave room for interpretation of congressional intent with regard to aid to public libraries.

Citizens in almost every community in the United States have established public libraries. They are a legitimate local government function and serve essential educational, informational, and recreational purposes. Their inclusion in Federal disaster relief programs is appropriate.

Although the examples discussed are located in Pennsylvania, similar historical origins and relationships to local governments exist in many public libraries throughout the country. A narrow interpretation of the current law could result in one public library receiving assistance while a neighboring library in another locality or State, though damaged by the same disaster, is denied aid.

The American Library Association requests that Congress specifically declare tax-supported libraries open to the public eligible for Federal disaster relief assistance.

Last year, in supporting the amendment to relieve the six flood-damaged libraries of liability, former Senator Schweiker stated that FEMA itself suggested a permanent and explicit change in the law which would permit private nonprofit libraries to be eligible for Federal disaster assistance.

H.R. 3537, the House reauthorization bill, included such an amendment. The American Library Association recommends that the Senate subcommittee include similar language in the Senate reauthorization bill.

An amendment making private nonprofit libraries eligible would preclude any possible doubt that public community libraries were eligible even if privately owned or directed. In addition, many pri-

vate nonprofit libraries are valuable sources for State and local history and for unique materials in specific subject areas.

Increasingly, individual libraries cannot meet all the needs of their users, but through computerized bibliographic networks, they are able to identify which library in the country does have the needed resources, and often to borrow it for the local user.

Private nonprofit libraries participate widely in such interlibrary sharing, and public libraries are often dependent on them to meet the needs of their users.

Because private nonprofit libraries serve the common good, it is appropriate they be eligible for disaster assistance, should it be needed. Many private nonprofit facilities are already eligible under current law.

H.R. 3537 would make several categories of private nonprofit facilities, including libraries, specifically eligible. The Congressional Budget Office estimates that the House amendment would have little impact on the cost of the bill.

In summary, our recommendations are as follows:

The eligibility of public tax supported libraries for assistance under the disaster relief of 1974 should be clarified and the act should be amended to include private nonprofit libraries as eligible recipients.

Mr. Chairman, I appreciate the opportunity to testify on behalf of the American Library Association.

Senator MURKOWSKI. Thank you very much. We very much appreciate, your presentation.

I have a few questions. In view of the private libraries in existence and the public libraries and the libraries that are privately held and really not open to the public, in your recommendation from the Library Association, I wonder, for the benefit of the committee, specifically what libraries you might not include—a private library that has limited usage from the standpoint of the public fall in that category?

Ms. CADY. I would include a library that was not only not open to the public but also made none of its materials available—

Senator MURKOWSKI. Private collection.

Ms. CADY. Through interlibrary loans. Many libraries for various reasons are not able to be open to the public, nevertheless loan their materials through photocopying and other methods, extensively for use of the public.

Some Federal libraries probably fall into that category.

Senator MURKOWSKI. Do you or does the association you represent have any view on what the responsibility for such institutions might be to rely on the general availability of insurance to cover hazards?

Ms. CADY. Most libraries do carry such insurance. As a matter of fact, the Johnstown Public Library that I referred to had \$100,000 of flood insurance that they had taken out a few months before this disaster occurred and all of that was used.

Senator MURKOWSKI. Was that adequate for their loss?

Ms. CADY. No, it wasn't.

Senator MURKOWSKI. I assume that the value of the material that was damaged, plus the damage to the structure in excess of that?

Ms. CADY. Yes, sir.

Senator MURKOWSKI. The average home is insured in excess of, I won't say what the average home costs because I don't think anyone knows, it is just high, but it would seem that would not be adequate coverage in my offhand opinion.

Why wouldn't it be appropriate for libraries to insure for reasonable value?

Ms. CADY. I think it is appropriate and I think most of them do do that.

Senator MURKOWSKI. So your suggestion is that there is a need to clarify for those that would be eligible under the Disaster Relief Act but it would not exempt them from the normal prudence of having insurance, is that generally your thought?

Ms. CADY. I would agree.

Senator MURKOWSKI. You see, one of the problems that would concern the committee, I am sure, is if we gave the assurance in the event of disaster that libraries would be totally eligible and I don't necessarily agree they shouldn't be, but we would hate to get into the area of providing, in effect, Federal insurance against the exposure of loss.

Ms. CADY. Libraries would have to be insured against many things that wouldn't fall under the category of a disaster such as a fire, a fire limited to a small locality. They would have to carry insurance to cover themselves against that.

Personally, I don't see where this coverage would relieve them from carrying normal insurance.

Senator MURKOWSKI. I think that what we will do, and it was brought out in an area you were kind enough to sit through until your presentation, the necessity of the General Accounting Office providing some guidelines to the committee with regard to the application of insurance in the normal course of prudent coverage on whatever the fiscal asset might be.

I am sure you would agree there is the necessity of providing the normal coverages through the insurance field, and I would hate to see this situation get so broad that we would open the door for private institutions not already covered under the act to feel that they could be covered under the disaster relief application.

In other words, where would it stop? The extensive liability of the Government would be something impossible to measure.

I have no further questions, Miss Cady. Thank you again for bearing with us today.

Again, if you have anything further to add to the record, the record will be open for 10 days.

The National Association of Counties hoped to be with us today. However, they are not able to be here. They have submitted testimony which will be inserted in the hearing record. [See p. 139.]

In addition, we received a letter from Church World Service regarding a number of their concerns and suggestions about disaster relief, and I would also make that a part of the record. [See p. 177.]

And I will also insert a memorandum from Mr. Joseph M. Pollard, Legislative Coordinator, County of Los Angeles, California, which was directed to me, and that will also be submitted in the record.

[The memorandum follows:]



BOARD OF SUPERVISORS COUNTY OF LOS ANGELES

1735 NEW YORK AVENUE, N.W. SUITE 500
WASHINGTON, D.C. 20006
(202) 782-0471

500 W. TEMPLE STREET, ROOM 723
LOS ANGELES, CALIFORNIA 90012
(213) 974-1303

JOSEPH M. POLLARD

WASHINGTON REPRESENTATIVE — LEGISLATIVE COORDINATOR

July 21, 1981

MEMORANDUM

For : Honorable Frank H. Murkowski, Chairman
Subcommittee on Regional and Community Development
Committee on Environment and Public Works
United States Senate

From : Joseph M. Pollard, Legislative Coordinator
County of Los Angeles, California

Subject : Disaster Relief Act of 1974 (S. 1212, 16, 17)

On May 26, our Board of Supervisors approved a motion to oppose the amendment to the Disaster Relief Act of 1974 which would reduce the amount of Federal funding for Presidentially-declared disasters and emergencies from current levels to 75% of the cost for relief.

We have had considerable experience in dealing with the present Federal agency for handling disaster relief funds (Federal Emergency Management Agency - FEMA) and its predecessor offices. In no instance in our experience has a Federal office approved and put forth 100% of the costs for local disaster relief. Far from it, in fact. Under the present law, states and local governments have paid and will continue to pay for a high percentage of actual relief costs. The following figures show that the County of Los Angeles has met substantial damage costs even though some Federal assistance has been approved:

	<u>Requested</u>	<u>Approved</u>	<u>County Cost(net)</u>	<u>*25% Local Match</u>
1978 Storms	\$57,500,000	\$35,728,000	\$21,772,000	\$8,932,000
1980 Storms	47,750,000	\$31,012,000	\$16,738,000	\$7,753,000

In light of this evidence, we respectfully urge the Subcommittee not to include the proposed amendment requiring a 25% local match in legislation pertaining to disaster relief.

*Additional net cost
had 25%/75% formula
been in effect.

MEMBERS OF THE BOARD

PETER F. SCHABARUM
KENNETH HAHN
KENNETH D. EDELMAN
DEAN SANA
MICHAEL D. ANTONOVICH

CHIEF ADMINISTRATIVE
OFFICER
HARRY L. HUFFORD

Senator MURKOWSKI. I thank the witnesses and thank those in the audience who have seen fit to expound their knowledge.

[Whereupon, at 5 p.m., the subcommittee recessed, to reconvene subject to the call of the Chair.]

[Statements and other material supplied for the record follow:]

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 2:00 P.M. EST
TUESDAY, JULY 21, 1981

STATEMENT OF
HENRY ESCHWEGE, DIRECTOR
COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION
BEFORE THE
SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT
OF THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ON
FEDERAL DISASTER ASSISTANCE

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE WELCOME YOUR INVITATION TO BE HERE TODAY TO DISCUSS THE RESULTS OF SOME OF OUR PAST REVIEWS OF FEDERAL ASSISTANCE ADMINISTERED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) UNDER THE DISASTER RELIEF ACT OF 1974 (P.L. 93-288). ASSISTANCE CAN BE PROVIDED IN THE FORM OF LOANS, GRANTS, AND INSURANCE FOR LOSSES FROM NATURAL DISASTERS.

GAO INTEREST AND INVOLVEMENT
IN FEDERAL DISASTER ASSISTANCE

IN THE PAST WE HAVE REPORTED ON A WIDE RANGE OF ACTIVITIES CARRIED OUT BY FEMA AND ITS PREDECESSOR AGENCY, THE FEDERAL DISASTER ASSISTANCE ADMINISTRATION.

WE HAVE ALSO EVALUATED AND REPORTED ON THE ACTIVITIES OF OTHER FEDERAL AGENCIES SUCH AS THOSE OF THE SMALL BUSINESS ADMINISTRATION'S DISASTER LOAN PROGRAM, THE FARMERS HOME ADMINISTRATION'S EMERGENCY LOAN PROGRAM, AND THE DEPARTMENT OF AGRICULTURE'S EMERGENCY FOOD STAMP PROGRAM. A LIST OF OUR REPORTS ISSUED SINCE MARCH 1978 IS ATTACHED TO MY STATEMENT. (APPENDIX I)

OUR CURRENT WORK RELATES TO:

- FEMA'S NATURAL DISASTER DECLARATION PROCESS;
- DISASTER ASSISTANCE PROVIDED TO STATES AND LOCAL COMMUNITIES; AND
- ASSISTANCE PROVIDED IN RESPONSE TO THE MOUNT ST. HELEN'S ERUPTION.

LET ME FIRST HIGHLIGHT OUR FINDINGS FROM FOUR OF OUR RECENT REPORTS RELATED TO:

- POOR CONTROLS OVER FEDERAL EXPENDITURES AFTER THE 1978 MASSACHUSETTS BLIZZARD;
- STATES' PREPAREDNESS TO RESPOND TO DISASTERS;
- FEDERAL SNOW REMOVAL REIMBURSEMENT POLICY; AND
- OUR ANALYSIS OF WHAT FEDERAL DISASTER ASSISTANCE POLICY SHOULD BE.

POOR CONTROLS OVER FEDERAL AID

AT THE REQUEST OF THE SUBCOMMITTEE ON OVERSIGHT AND REVIEW OF THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, WE ISSUED A REPORT IN JANUARY 1981 ON "POOR CONTROLS OVER FEDERAL AID IN MASSACHUSETTS AFTER THE 1978 BLIZZARD CAUSED QUESTIONABLE BENEFIT PAYMENTS" (CED-81-4). WE FOUND A LACK OF COORDINATION

AMONG THE FEDERAL AGENCIES AS WELL AS OTHER WEAKNESSES IN ADMINISTERING DISASTER ASSISTANCE PROGRAMS. PROGRAMS INCLUDED IN OUR REVIEW WERE SBA'S DISASTER LOAN PROGRAM, FEMA'S INDIVIDUAL AND FAMILY GRANT PROGRAM, AND A DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) ADMINISTERED PROGRAM FOR EMERGENCY REPAIR TO RESIDENCES. RESPONSIBILITY FOR THE HUD PROGRAM WAS SUBSEQUENTLY ASSUMED BY FEMA. AS REQUIRED BY THE ACT, THE STATE OF MASSACHUSETTS ADMINISTERED FEMA'S INDIVIDUAL AND FAMILY GRANT PROGRAM. TO PLACE OUR FINDINGS IN PERSPECTIVE, IT MUST BE RECOGNIZED THAT IN A SEVERE DISASTER SITUATION, TREMENDOUS PRESSURE IS PLACED ON GOVERNMENT AGENCIES TO PROVIDE ASSISTANCE IN A TIMELY MANNER AND THAT A CERTAIN AMOUNT OF DUPLICATIVE OR QUESTIONABLE BENEFITS CAN BE EXPECTED.

DUPLICATE PAYMENTS AND
QUESTIONABLE GRANTS

WE PROJECTED THAT DUPLICATIVE BENEFITS OR QUESTIONABLE GRANTS OCCURRED IN 913 OR 26 PERCENT OF 3,417 CASES IN A UNIVERSE SAMPLED. MOST OF THE DUPLICATION RESULTED FROM A LACK OF COORDINATION BETWEEN HUD'S EMERGENCY REPAIR TO RESIDENCES PROGRAM AND SBA'S DISASTER LOAN PROGRAM. THE TWO PROGRAMS PROVIDED BENEFITS FOR THE SAME LOSSES BECAUSE HUD AND SBA DID NOT EXCHANGE TIMELY INFORMATION. FOR EXAMPLE, AT ONE FAMILY'S RESIDENCE, A NEW BURNER VALUED AT \$482 WAS INSTALLED 11 DAYS AFTER THE STORM UNDER THE EMERGENCY REPAIR PROGRAM AT NO COST TO THE OWNER. FOUR MONTHS LATER, SBA APPROVED A \$14,200 LOAN WHICH INCLUDED \$1,500 TO REPLACE THE SINGLE HEATING SYSTEM IN THIS SAME RESIDENCE. THE FAMILY

USED \$4,476 OF THE LOAN PROCEEDS TO INSTALL ADDITIONAL HEATING SYSTEMS IN ITS SECOND AND THIRD FLOOR APARTMENTS. THIS EXPENDITURE WAS NOT DISASTER RELATED. IN ANOTHER CASE, AN INDIVIDUAL APPLIED SEPARATELY FOR AN SBA LOAN AND A GRANT TO REPLACE A 1967 CADILLAC WHICH HE CLAIMED AS HAVING BEEN DESTROYED DURING THE STORM. HE RECEIVED A \$1,300 LOAN FROM SBA AND A FEMA GRANT FOR \$1,680. BOTH OF THESE CASES DEMONSTRATE A LACK OF COORDINATION BETWEEN THE AGENCIES RESPONSIBLE FOR PROVIDING DISASTER BENEFITS.

WE QUESTIONED THE AWARD OF A NUMBER OF GRANTS BECAUSE OF A LACK OF ADEQUATE EVIDENCE THAT THERE WAS A SERIOUS NEED OR NECESSARY EXPENSE AS REQUIRED BY FEDERAL STATUTE. IN OTHER CASES, WE QUESTIONED THE ELIGIBILITY OF THE GRANT RECIPIENTS. FOR EXAMPLE, A GRANT OF \$5,000 WAS MADE TO REPAIR A SEAWALL ALLEGEDLY DAMAGED DURING THE STORM. THE OFFICIAL WHO INSPECTED THIS PROPERTY TO VERIFY THE LOSS ESTABLISHED THAT NO NEED FOR A GRANT EXISTED. WE COULD NOT DETERMINE THE BASIS FOR PROCEEDING WITH THE GRANT AWARD.

SUBMISSION OF FALSE OR
CONFLICTING INFORMATION

WE ALSO IDENTIFIED CASES WHERE APPLICANTS SUBMITTED FALSE OR CONFLICTING INFORMATION TO SUPPORT CLAIMS.

IN ONE SUCH CASE, A FAMILY RECEIVED A \$9,600 SBA LOAN INCLUDING \$4,475 FOR STRUCTURAL REPAIRS TO THEIR HOME. THE FAMILY ADVISED US THAT A CERTAIN CONTRACTOR HAD MADE THESE REPAIRS. THE CONTRACTOR TOLD US HE GAVE THIS FAMILY A \$5,325 ESTIMATE FOR THE STRUCTURAL REPAIRS, ANNOTATED "PAID

IN FULL." SBA ACCEPTED THE ESTIMATE AS EVIDENCE THAT THE WORK WAS DONE AND MADE A DISBURSEMENT BASED ON THIS EVIDENCE. THE CONTRACTOR INFORMED US THAT HE HAD NOT DONE THE WORK AND THAT THE "PAID IN FULL" NOTATION REFERRED TO HIS RECEIVING \$25 FOR PROVIDING THE ESTIMATE. MOREOVER, THE CONTRACTOR SAID HE HAD GIVEN SIMILAR ESTIMATES TO FROM 15 TO 20 DISASTER VICTIMS BUT HAD ACTUALLY DONE THE REPAIR WORK IN ONLY TWO CASES.

ADMINISTRATION OF THE
INDIVIDUAL AND FAMILY
GRANT PROGRAM

WE IDENTIFIED OTHER PROBLEMS RELATED TO FEMA'S ADMINISTRATION OF THE INDIVIDUAL AND FAMILY GRANT PROGRAM. FOR EXAMPLE, GRANTS WERE AWARDED WHEN APPLICANTS ORALLY DECLARED THAT IF THEY WERE TO RECEIVE AN SBA LOAN, THEY WOULD NOT BE ABLE TO REPAY IT. THESE APPLICANTS WERE NOT REQUIRED TO SUBMIT FINANCIAL INFORMATION; THEREFORE, SBA COULD NOT VERIFY THEIR FINANCIAL STATUS. IN ONE OF THESE CASES, AN INDIVIDUAL, AFTER RECEIVING A FEMA GRANT FOR \$4,286 BASED ON AN ORAL DECLARATION OF HIS INABILITY TO REPAY A LOAN, REAPPLIED FOR AND RECEIVED AN SBA LOAN.

WE FOUND A NUMBER OF PROBLEMS IN THE AWARD OF TRANSPORTATION GRANTS BY THE STATE OF MASSACHUSETTS UNDER THE INDIVIDUAL AND FAMILY GRANT PROGRAM. FOR EXAMPLE, DESPITE THE GENERAL AVAILABILITY OF PUBLIC TRANSPORTATION IN THE DISASTER AREA, GRANTS WERE AWARDED WITHOUT CONSIDERING WHETHER THE APPLICANTS COULD HAVE USED PUBLIC TRANSPORTATION AS REQUIRED BY FEMA REGULATIONS. GRANTS WERE AWARDED ALSO TO REPLACE VEHICLES CLAIMED TO BE DESTROYED OR MADE UNUSABLE BY THE DISASTER EVEN THOUGH THE VEHICLES WERE BEING USED MONTHS AFTER THE STORM.

FINALLY, WE QUESTIONED FEMA'S POLICY OF AWARDING GRANTS IN AMOUNTS IN EXCESS OF THE VALUE OF THE VEHICLES CLAIMED AS A LOSS.

ACTION TAKEN AS A
RESULT OF OUR REVIEW

BECAUSE OF THE VARIOUS PROBLEMS FOUND, WE REFERRED MANY OF THESE CASES TO FEMA AND SBA FOR FOLLOW-UP ACTION. BECAUSE OF THE FRAUD POTENTIAL, WE REFERRED 33 OF THE CASES TO THE INSPECTOR GENERAL OF SBA OR FEMA. AS OF MAY 13, 1981, 10 OF THE 33 CASES IN TURN HAD BEEN REFERRED TO THE OFFICE OF THE U.S. ATTORNEY IN MASSACHUSETTS OR THE MASSACHUSETTS ATTORNEY GENERAL FOR APPROPRIATE ACTION.

BASED ON THE HIGH NUMBER OF QUESTIONABLE BENEFITS PROVIDED TO INDIVIDUALS OR FAMILIES IN OUR SAMPLE, WE RECOMMENDED THAT FEMA AND SBA COLLABORATE AND REVIEW ALL BENEFITS PROVIDED AND IDENTIFY THOSE PERSONS WHO RECEIVED IMPROPER BENEFITS OR SUBMITTED FRAUDULENT CLAIMS. ALTHOUGH THE DEPARTMENT OF JUSTICE AGREED WITH OUR RECOMMENDATION, FEMA AND SBA INITIALLY INFORMED US THAT BECAUSE OF THE COSTS INVOLVED THIS WOULD NOT BE DONE. WE FELT THAT FAILURE TO AGGRESSIVELY FOLLOW UP COULD BE SENDING SIGNALS TO POTENTIAL DISASTER VICTIMS THAT THE FEDERAL GOVERNMENT WILL NOT PURSUE CASES WHERE IMPROPRIETIES MAY HAVE OCCURRED. MORE RECENTLY, WE WERE INFORMED BY FEMA THAT THEY HAVE, IN FACT, STARTED TO REVIEW ALL CASES NOT SAMPLED BY US FOR POSSIBLE DUPLICATIVE BENEFITS.

THE AGENCIES INFORMED US ALSO THAT THEY PLAN TO TAKE CORRECTIVE ACTION CONCERNING SOME OF OUR OTHER RECOMMENDATIONS.

FOR EXAMPLE, FEMA AND SBA ARE WORKING TOGETHER TO DEVELOP A NEW PROCEDURE WHICH WILL REQUIRE SBA TO DOCUMENT ALL APPLICANTS' INCOME AND DEBTS BEFORE DECIDING WHETHER A LOAN CAN OR CANNOT BE REPAYED.

ALSO, REGARDING THE AWARDING OF GRANTS TO PURCHASE VEHICLES WITHOUT CONSIDERING THE AVAILABILITY OF PUBLIC TRANSPORTATION, FEMA AGREED TO PROPERLY DOCUMENT ITS DETERMINATION THAT PUBLIC TRANSPORTATION IS INADEQUATE.

STATE PREPAREDNESS

IN MARCH 1980, ALSO AT THE HOUSE SUBCOMMITTEE ON OVERSIGHT AND REVIEW'S REQUEST, WE ISSUED A REPORT ENTITLED "STATES CAN BE BETTER PREPARED TO RESPOND TO DISASTERS" (CED-80-60). SECTION 201 OF THE DISASTER RELIEF ACT OF 1974 PROVIDES EACH STATE A ONE-TIME GRANT OF UP TO \$250,000 FOR DEVELOPING AN EMERGENCY PLAN. THIS GRANT PROGRAM WAS ADMINISTERED BY THE FEDERAL DISASTER ASSISTANCE ADMINISTRATION IN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT BEFORE BEING TRANSFERRED TO FEMA IN JULY 1979.

IMPLEMENTING PROCEDURES

OUR REVIEW IN SIX STATES--NEW HAMPSHIRE, CONNECTICUT, GEORGIA, MISSISSIPPI, OKLAHOMA, AND MISSOURI--DISCLOSED THAT STATE EMERGENCY PLANS ASSIGNED STATE AGENCIES RESPONSIBILITY FOR VARIOUS TASKS BUT DID NOT CONTAIN ADEQUATE PROCEDURES FOR CARRYING OUT THE TASKS. ALTHOUGH THE PROCEDURES WERE TO BE DEVELOPED BY STATE AGENCIES, A MAJORITY OF THESE AGENCIES HAD NOT DEVELOPED SUCH PROCEDURES OR HAD DEVELOPED DOCUMENTS, PURPORTED TO BE PROCEDURES, THAT LACKED THE NECESSARY DETAIL

TO ALLOW THE AGENCIES TO FULFILL THEIR RESPONSIBILITIES AT THE TIME OF A DISASTER.

THE DEVELOPMENT OF ADEQUATE IMPLEMENTING PROCEDURES BY STATE AGENCIES IS VITAL TO A STATE'S PREPAREDNESS FOR RESPONDING TO A DISASTER. WITHOUT PROCEDURES, AN AGENCY MAY IMPLEMENT THE TASKS IN AN UNTIMELY, INEFFICIENT MANNER.

LOCAL PLANS

IN FIVE OF THE SIX STATES WE VISITED, EMERGENCY PLANS IN MOST LOCAL COMMUNITIES EITHER NEEDED TO BE REVISED TO CONFORM WITH THE STATE EMERGENCY PLANS OR HAD NOT BEEN REVIEWED BY THE STATES TO DETERMINE THEIR CONFORMANCE WITH STATE PLANS. LOCAL PLANS IN ONE OF THE SIX STATES, OKLAHOMA, WERE SAID TO BE IN CONFORMANCE WITH THE STATE EMERGENCY PLAN.

TRAINING

WE REVIEWED EMERGENCY PREPAREDNESS TRAINING PROVIDED BY THE STATES TO ITS PERSONNEL. SOME STATE AGENCY LIAISON OFFICIALS WHO ARE RESPONSIBLE FOR COORDINATING THEIR AGENCIES' EFFORTS HAD PARTICIPATED IN TRAINING WHEREAS OTHERS HAD NOT. THOSE STATE AGENCY PERSONNEL WHO WOULD BE RESPONSIBLE FOR CARRYING OUT THE TASKS ASSIGNED UNDER THE STATE EMERGENCY PLANS HAD RECEIVED PRACTICALLY NO TRAINING. NONE OF THE SIX STATES WE REVIEWED HAD ESTABLISHED DISASTER TRAINING PROGRAMS WITH MINIMUM STANDARDS FOR STATE LIAISONS OR OTHER AGENCY PERSONNEL.

LOCAL OFFICIALS HAD RECEIVED SOME TRAINING FROM THE STATES UNDER THE \$250,000 GRANT; HOWEVER, NONE OF THE STATES HAD DEVELOPED TRAINING PROGRAMS FOR LOCAL OFFICIALS THAT SET MINIMUM STANDARDS. SOME LOCAL OFFICIALS WERE RECEIVING CIVIL

DEFENSE TYPE TRAINING. WE WERE TOLD THAT THIS TRAINING IS SIMILAR TO THAT NEEDED FOR DISASTER EMERGENCIES.

TRAINING FOR DISASTERS IS PARTICULARLY IMPORTANT WHERE THE TASKS ASSIGNED TO STATES AND LOCAL PERSONNEL BY EMERGENCY PLANS DIFFER FROM THEIR REGULAR DUTIES. HOWEVER, FEMA HAD NOT DETERMINED MINIMUM DISASTER TRAINING NEEDED BY STATE AND LOCAL PERSONNEL NOR HAD FEMA PROVIDED STATES WITH TRAINING STANDARDS WHICH WOULD BETTER ASSURE AN ADEQUATE LEVEL OF PERFORMANCE DURING A DISASTER.

AGENCY ACTION

AS WE RECOMMENDED, FEMA PROVIDED EACH STATE GOVERNOR A COPY OF OUR REPORT ALONG WITH A LETTER EMPHASIZING OUR FINDINGS AND RECOMMENDATIONS REGARDING IMPLEMENTING PROCEDURES, LOCAL EMERGENCY PLANS, AND TRAINING.

FEMA ALSO AGREED WITH OUR RECOMMENDATION TO PLACE A HIGH PRIORITY ON STATES USING FEMA GRANT FUNDS TO MONITOR COMPLETION OF:

- THE DEVELOPMENT OF STATE AGENCY PROCEDURES FOR DISASTER TASKS ASSIGNED BY THE STATE EMERGENCY PLAN;
- THE DEVELOPMENT, OR REVISION OF, LOCAL EMERGENCY PLANS TO ASSURE THEIR COMPATIBILITY WITH THE STATE EMERGENCY PLANS; AND
- THE DEVELOPMENT OF TRAINING PROGRAMS FOR STATE AND LOCAL PERSONNEL.

FEMA ISSUED A STATEMENT OF TRAINING AND EDUCATION REQUIREMENTS THAT INCLUDES THE SCOPE OF TRAINING NEEDED AND PERFORMANCE STANDARDS.

FEDERAL SNOW REMOVAL
REIMBURSEMENT POLICIES

IN AUGUST 1979 WE REPORTED (CED-79-97) ON FEMA'S REIMBURSEMENT POLICIES FOR SNOW EMERGENCIES. (THE REPORT WAS ACTUALLY DIRECTED TO THE ADMINISTRATOR OF THE FEDERAL DISASTER ASSISTANCE ADMINISTRATION, ONE OF FEMA'S PREDECESSOR AGENCIES.) OUR REVIEW INVOLVED TWO ADJOINING STATES--INDIANA AND ILLINOIS--THAT WERE AFFECTED BY THE SAME SNOWSTORM, BUT ONLY ILLINOIS RECEIVED FEDERAL EMERGENCY ASSISTANCE.

WE IDENTIFIED PROBLEMS IN FEMA'S SNOW REMOVAL REIMBURSEMENT POLICIES AND MADE SEVERAL RECOMMENDATIONS TO CORRECT THESE PROBLEMS. FEMA SUBSEQUENTLY REVISED ITS GUIDELINES ON SNOW EMERGENCIES AND THUS RESOLVED SOME OF THE PROBLEMS WE HAD IDENTIFIED. I WOULD LIKE TO HIGHLIGHT TWO OF THE PROBLEMS STILL NOT RESOLVED.

PROVIDING FEDERAL LOANS
RATHER THAN GRANTS

THE FIRST PROBLEM IS CONCERNED WITH GRANTING FEDERAL ASSISTANCE IN SNOW EMERGENCIES WITHOUT ADEQUATE INFORMATION AS TO WHETHER STATES AND LOCAL GOVERNMENTS CAN USE THEIR OWN RESOURCES TO RESPOND. THE DISASTER RELIEF ACT OF 1974 INTENDS THAT FEDERAL FUNDS SHOULD NOT BE DISBURSED TO THE EXTENT THAT THE STATE CAN USE ITS LEGALLY AVAILABLE FINANCIAL AND PHYSICAL RESOURCES. YET, TO INSURE THAT A STATE HAS FULFILLED ITS OBLIGATION, A TIME-CONSUMING EXAMINATION OF THE STATE'S FINANCIAL CONDITION IS NECESSARY. TIME MAY NOT BE AVAILABLE FOR SUCH AN EXAMINATION WHEN A STATE REQUESTS FEDERAL ASSISTANCE. THEREFORE, WE RECOMMENDED THAT THE CONGRESS ENACT

LEGISLATION TO:

- REQUIRE FUTURE SNOW REMOVAL REIMBURSEMENTS TO BE IN THE FORM OF LOANS RATHER THAN GRANTS, AND
- GIVE FEMA THE AUTHORITY TO FORGIVE EMERGENCY SNOW REMOVAL LOANS TO THE EXTENT THAT A SUBSEQUENT, DETAILED EXAMINATION DISCLOSES THAT A STATE COULD NOT OTHERWISE AFFORD THE COST OF SNOW REMOVAL.

FEMA DISAGREED WITH THE RECOMMENDED CHANGES AND POINTED OUT SEVERAL POTENTIAL PROBLEMS WITH CHANGING THE FORM OF FEDERAL ASSISTANCE AVAILABLE FOR SNOW EMERGENCIES. HOWEVER, WE DID NOT BELIEVE THAT THESE PROBLEMS WERE INSURMOUNTABLE. OUR RECOMMENDATION HAS NOT BEEN ENACTED INTO LAW.

INEQUITIES INHERENT IN THE ACT

ANOTHER PROBLEM IDENTIFIED CONCERNS INEQUITIES IN THE DISASTER RELIEF ACT OF 1974. OUR REPORT RECOGNIZED THAT THE ACT UNFAIRLY PENALIZES OR REWARDS STATES APPLYING FOR FEDERAL SNOW REMOVAL REIMBURSEMENTS BECAUSE OF DIFFERENCES IN STATE LAWS AND STATES' PREPAREDNESS TO DEAL WITH EMERGENCIES. FOR EXAMPLE, IF A STATE'S CONSTITUTION ALLOWS THE USE OF SURPLUS FUNDS FOR A SNOW EMERGENCY, THAT STATE WOULD NOT BE ELIGIBLE FOR FEDERAL ASSISTANCE IF IT HAD ADEQUATE SURPLUSES. HOWEVER, A STATE WHOSE CONSTITUTION RESTRICTS THE USE OF ITS SURPLUS FUNDS WOULD BE ELIGIBLE FOR FEDERAL ASSISTANCE EVEN THOUGH IT MAINTAINED ADEQUATE SURPLUSES.

WE RECOMMENDED THAT FEMA PREPARE A COMPREHENSIVE ANALYSIS OF THE IMPACT OF THESE POTENTIAL INEQUITIES ON FEDERAL DISASTER ASSISTANCE AND SUBMIT A DETAILED PLAN AND LEGISLATIVE CHANGES

TO THE CONGRESS TO CORRECT SUCH WEAKNESSES IN THE ACT.

FEMA AGREED THAT INEQUITIES EXIST IN DISASTER RELIEF BECAUSE OF DIFFERENCES IN STATE LAWS, FISCAL PROCEDURES, AND FLEXIBILITY IN ALLOCATING FUNDS. FEMA AGREED TO CONDUCT A STUDY IF DIRECTED BY THE CONGRESS TO DO SO. THE RECOMMENDED ANALYSIS HAS NOT BEEN UNDERTAKEN TO DATE.

FEDERAL DISASTER ASSISTANCE POLICY

IN JUNE 1980, AT THE REQUEST OF THE SENATE COMMITTEE ON THE BUDGET, WE ISSUED THE REPORT, "FEDERAL DISASTER ASSISTANCE: WHAT SHOULD THE POLICY BE?" (PAD-80-39).

THE REPORT EXAMINES THE THREE GENERIC FORMS OF ASSISTANCE--LOANS, GRANTS, AND INSURANCE--FUNDING NATURAL DISASTER LOSSES. FEDERAL POLICY SHOULD INCLUDE THE NOTION THAT THOSE LOSING--PROPORTIONALLY--THE MOST FROM A NATURAL DISASTER SHOULD RECEIVE THE MOST ASSISTANCE AND THAT THE AVAILABILITY OF ASSISTANCE SHOULD MINIMIZE THE POSSIBILITY OF CONTRIBUTING TO DECISIONS TO LOCATE IN HIGH-RISK AREAS. WE CONCLUDED THAT INSURANCE IS SUPERIOR TO ALTERNATIVE MEANS OF DELIVERING DISASTER ASSISTANCE. THE REPORT DISCUSSES THE ADVANTAGES OF THE INSURANCE OPTION.

NATURAL DISASTER DECLARATIONS BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY

WE ARE CURRENTLY REVIEWING FEMA'S DISASTER DECLARATION PROCESS WHICH LEADS UP TO THE PRESIDENT'S DECLARATION OF A MAJOR DISASTER OR EMERGENCY. OUR REVIEW CONCENTRATES ON WHETHER, (1) THE DECLARATION PROCESS UNDER THE DISASTER RELIEF ACT OF 1974 IS BEING PROPERLY IMPLEMENTED, (2) THE INFORMATION OBTAINED BY FEMA FROM STATES IS ADEQUATELY EVALUATED, AND (3)

FEMA'S METHODS FOR EVALUATING THE DATA ARE FAIR AND EQUITABLE TO ALL CONCERNED.

OUR WORK TO DATE INDICATES THAT THE SEVERITY AND MAGNITUDE OF A DISASTER ARE REASONABLY DETERMINABLE BY FEMA IN TERMS OF DAMAGES, LOSSES, HARDSHIP, AND SUFFERING. HOWEVER, FEMA'S ABILITY TO DETERMINE WHETHER THE SEVERITY AND LOSS IS BEYOND THE CAPABILITY OF STATE AND LOCAL GOVERNMENTS, AND WHETHER STATE AND LOCAL GOVERNMENTS HAVE MADE A REASONABLE COMMITMENT OF THEIR RESOURCES IS OF PRINCIPAL CONCERN TO US AT THIS TIME.

IN OUR REPORT ON FEMA'S SNOW REMOVAL REIMBURSEMENT POLICY WE FOUND THAT FEMA WAS NOT ADEQUATELY ASSESSING STATES' LEGAL AND FINANCIAL CAPACITY TO RESPOND TO SNOWSTORMS. WE ARE EXAMINING THIS ISSUE MORE BROADLY IN OUR CURRENT REVIEW.

RECENTLY, FEMA ADOPTED A COST-SHARING PRACTICE OF REQUIRING STATE AND LOCAL GOVERNMENTS TO PAY 25 PERCENT OF ELIGIBLE PUBLIC ASSISTANCE COSTS. A NUMBER OF STATES HAVE EXPRESSED OPPOSITION TO THIS PRACTICE. HOWEVER, LEGISLATION REQUIRING THIS COST-SHARING PRACTICE HAS BEEN SUBMITTED BY THE ADMINISTRATION TO THE CONGRESS. WE ARE ALSO EXAMINING THE ISSUES PERTAINING TO STATE AND LOCAL COMMITMENTS IN OUR CURRENT REVIEW.

REVIEW OF FEDERAL DISASTER
ASSISTANCE PROVIDED TO
STATE AND LOCAL COMMUNITIES

WE ARE CURRENTLY REVIEWING FEDERAL DISASTER ASSISTANCE PROVIDED TO STATES AND LOCAL COMMUNITIES. OUR REVIEW OBJECTIVES ARE TO (1) DETERMINE THE LEVEL OF ASSISTANCE PROVIDED BY STATE AND LOCAL COMMUNITIES, (2) DETERMINE WHETHER FEMA IS CONSISTENT IN MAKING DECISIONS ON WHAT ITEMS ARE ELIGIBLE

FOR FEDERAL REIMBURSEMENT, AND (3) DEMONSTRATE WAYS THAT STATES AND LOCAL COMMUNITIES CAN ASSUME GREATER RESPONSIBILITY IN PLANNING FOR AND RECOVERING FROM NATURAL DISASTERS WITH THE END RESULT BEING LESS FEDERAL FUNDING AND INVOLVEMENT. OUR WORK IS BEING CONDUCTED IN THE STATES OF ALABAMA, MISSISSIPPI, WISCONSIN, AND CALIFORNIA.

REVIEW OF FEDERAL RESPONSE
TO THE MOUNT ST. HELEN'S ERUPTION

WE ARE CURRENTLY REVIEWING THE FEDERAL RESPONSE TO THE MOUNT ST. HELEN'S ERUPTIONS. OUR REVIEW IS A CASE STUDY TO DETERMINE IF THERE ARE EMERGENCY PREPAREDNESS LESSONS TO BE LEARNED FROM THIS UNUSUAL DISASTER AND WHETHER ACTIONS TAKEN OR PLANNED CAN MINIMIZE SIMILAR FUTURE PROBLEMS. ISSUES BEING LOOKED AT INCLUDE (1) THE PROCESS FOR ALLOCATING FEDERAL FUNDS FOR MAJOR DISASTERS SUCH AS MOUNT ST. HELENS, AND (2) FEMA'S REIMBURSEMENT POLICIES AND REGULATIONS.

THIS CONCLUDES MY STATEMENT. WE SHALL BE PLEASED TO RESPOND TO YOUR QUESTIONS.

APPENDIX I

APPENDIX I

GAO REPORTS ON THE FEDERAL DISASTER
ASSISTANCE ACTIVITIES OF THE
FEDERAL EMERGENCY MANAGEMENT AGENCY
AND OTHER AGENCIES
MARCH 1978 - JUNE 1981

<u>Report Title</u>	<u>Issued</u>	<u>Requestor/Recipient</u>
Poor Controls Over Federal Aid in Massachusetts After the 1978 Blizzard Caused Questionable Benefit Payments (CED-81-4)	1-26-81	Subcommittee on Oversight and Review, House Committee on Public Works and Transportation
Federal Disaster Assistance: What Should the Policy Be? (PAD-80-39)	6-18-80	Senate Budget Committee
States Can Be Better Prepared to Respond to Disasters (CED-80-60)	3-31-80	Subcommittee on Oversight and Review, House Committee on Public Works and Transportation
Farmers Home Administration Emergency Loan Processing Procedures in Stanislaus County, California (CED-80-64)	3-3-80	Congressman Shumway
Improvements Being Made in Flood Fighting Capabilities in Jackson, Mississippi Area (CED-80-36)	12-18-79	Subcommittee on Limitations of Contracted and Delegated Authority Senate Committee on the Judiciary
Review of Federal Disaster Assistance to Two Libraries in Pennsylvania (CED-80-22)	10-31-79	Congressman Rodino
Farmers Home Administration's and Small Business Administration's Disaster Loan Programs: Budget Implications and Beneficiaries (CED-79-111)	8-6-79	Senate Committee on the Budget
Federal Snow Removal Reimbursement Policy: Improvements Needed (CED-79-97)	8-2-79	Congressman Benjamin

APPENDIX I

APPENDIX I

<u>Report Title</u>	<u>Issued</u>	<u>Requestor/Recipient</u>
Action Needed to Improve the Review of Insurance Coverage of Disaster Victims Receiving Federal Assistance (CED-79-90)	6-18-79	Congressman Jones
Difficulties in Coordinating Farm Assistance Programs Operated by the Farmers Home Administration and Small Business Administration (CED-78-118)	5-25-78 "	Senate Committee on Agriculture, Nutrition, and Forestry, Senate Select Committee on Small Business
The Johnstown Area Flood of 1977: Case Study for the Future (CED-78-114)	5-5-78	Senator Eagleton
Problems with the Emergency Food Stamp Program	3-31-78	Administrator, Food and Nutrition Service, USDA
Actions Needed to Make the Farmers Home Administration's Emergency Loan Program More Equitable and Efficient (CED-78-136)	3-18-78	Secretary of Agriculture

TESTIMONY

OF

MR. ROBERT S. WILKERSON

ON BEHALF OF THE

NATIONAL GOVERNORS' ASSOCIATION

Senator Murkowski, members of this distinguished Subcommittee:

My name is Robert Wilkerson, and I am Director of the Division of Public Safety Planning and Assistance for the State of Florida. I appear before you today on behalf of my Governor, Governor Bob Graham, and on behalf of the National Governors' Association's Committee on Criminal Justice and Public Protection and its chairman, Governor Robert List of Nevada. I must point out that NGA has not officially adopted a position on the issue of re-authorizing the Disaster Relief Act, especially the cost-sharing provision. However, in keeping with a suggestion from the House/Senate Conference report on HUD-Independent Agencies Appropriations of last year, the NGA staff Committee has drafted a proposal for the nation's Governors consideration at their Annual meeting in August. This proposal represents the views of numerous Governors who have recently written their state delegations about 75/25 cost sharing issue when it was being considered by the House. Let me summarize these letters for you, and in turn, elaborate on the position which the Governors will be considering.

As you know, cost sharing (75 percent federal and 25 percent state and local matching formula for so called "eligible" public disaster assistance costs) has been administratively imposed by the Federal Emergency Management Agency over the last few years. This was done without any legislative direction. The statute (P.L. 93-288) enables disaster assistance for up to 100 percent reimbursement for presidentially declared disasters and emergencies.

Emergencies and disasters happen frequently in our nation, and at the Federal, state and local governments must share in the responsibility for assisting citizens in times of distress. The federal government responds to these events through the Federal Disaster Assistance Act (P.L. 93-288) which

allows for supplemental assistance to states in presidentially declared disasters.

The National Governors' Association commends the Congress and the Administration for their assistance and cooperation with state and local governments during emergencies and disasters. All units of government must work together to meet widely varying citizen and community needs during emergency situations.

Governors indicate that they fully support the principle of cost-sharing for disaster-related expenses. In his testimony before the Investigations and Oversight Subcommittee of the House Committee on Public Works and Transportation, my Governor testified that he supports the "concepts of cost sharing and accountability". Indeed, when all costs are accounted for during and after a particular disaster, states on the average pay far more than 25 percent of the total costs. Governor Spellman of the State of Washington explained that the Mt. St. Helens disaster cost included:

FEMA	Ineligible Costs	\$ 9,000,000
FEMA	Eligible Costs	<u>35,000,000</u>
Total		\$44,000,000

Because of FEMA's strict 75/25 interpretation of the commitment provisions in P.L. 93-288, state and local government applicants in Washington were reimbursed only 75 percent of eligible costs (\$26,700,000), and were left with a balance of \$17,900,000 to pay (\$9,000,000 + \$8,900,000). In other words, FEMA actually paid only about 60 percent of the total costs while the state and local governments paid 40 percent.

Governor Jerry Brown of the State of California explains that they identified \$165.7 million in damaged public properties after a major disaster in 1980. FEMA approved \$101.7 million for repairs of facilities deemed

eligible under their criteria. State and local governments had to pay the costs of repairs on those properties not deemed eligible by FEMA, which came to approximately 38 percent of the total damage repairs. FEMA's approved amount was considered 100 percent of what they deemed eligible costs. Had the disaster been funded under the 75/25 cost sharing formula and under the same criteria, the state and local governments would have been required to pay 54 percent of the total disaster costs.

Now, Mr. Chairman, I would like to comment on the two pieces of legislation before this committee. S.1216 would allow the Attorney General of the United States to bring a suit against any party contributing to events resulting in a Presidentially declared disaster or emergency. This seems to be a very good amendment to the statute. However, I would suggest that the U.S. Attorney work in cooperation with state and local officials in deciding how to dispose of cases resulting from the amendment.

Further, I would caution Congress to assure that the debate on this issue clearly delineates the intent of these powers. For example, is it the intent of Congress that this be applied against third parties which "cause" disasters or possibly against governmental jurisdictions who fail to mitigate known hazards. Such intent must be clear if we are not later to charge that federal administrators have violated the purpose of this amendment.

S.1217 contains the issue of primary concern to the states, which is mandated cost sharing of 75 federal and 25 percent state for eligible costs of a Presidentially declared disaster. Section 420(b) of this bill to amend P.L. 93-288 satisfies one of the basic concerns expressed by several Governors. It allows the President to advance the 25 percent state share to the states in the event of concurrent or multiple disasters and emergencies and catastrophic disasters. However, I am sure that Governors would

certainly question the last sentence of that section which states that: "Any such advance is to be repaid to the United States," because there are some instances which they may not be able to do so.

Mr. Chairman, I wish to defer further comments on this section of S.1217 until the Governors have had an opportunity to discuss the ramifications of section 420(b), especially the final sentence, at their August meeting. We will be happy to respond to that provision at that time.

Other aspects of S.1217 present further questions that must be resolved. First and foremost is the definition of "eligible costs". What costs are eligible for federal reimbursement and what costs are ineligible? States must know well ahead of a disaster which costs are eligible or to be shared, and which costs are ineligible for federal reimbursement. It is absolutely essential that this confusion be cleared so that states have some predictable guideline for eligible and ineligible costs. One way of solving this dilemma is to declare that beyond normal operating expenses, all costs of state and local government in dealing with any declared disaster or emergency should be eligible.

Second, are otherwise eligible costs incurred prior to the disaster designation eligible for federal reimbursement? Under any fixed cost sharing formula, state and local costs incurred prior to a presidential declaration should be eligible for Federal reimbursement. Many Governors argue that states spend much more than 25 percent of the total costs associated with a disaster prior to designation. (Note our earlier statement by Governor Spellman of Washington.) According to P.L. 93-288, a state must expend a "reasonable amount" of resources prior to requesting a declaration. In some cases, resources are seriously depleted by the time a disaster is declared and an additional 25 percent would be excessive, if not impossible. Therefore, states should be responsible for 25 percent of the total costs of declared disasters and emergencies from the time of onset, not the date of declaration, subject,

of course, to final federal/state audit. Furthermore, a cost-sharing provision should not cover contributions under other federal laws and programs which have other eligibility provisions and services.

Public Law 93-288 is the primary foundation for the structure embodying federal disaster recovery programs. The Act defines the problems to be resolved, provides the mechanism to meet the responsibility of alleviating both the suffering and damage resulting from emergencies and disasters, and proposes an orderly and continuing means of assistance by the federal government.

As is often the case in broad-reaching legislation such as P.L. 93-288, fragmentation can take place in its implementation through policy interpretation and administrative rules. We believe that these shortcomings in the disaster relief program are exemplified by the following four points:

- 1.)- emphasis on "physical recovery;"
- 2.)- inadequate support for hazard mitigation,
- 3.)- lack of guidance on what constitutes a commitment of state and local resources, and
- 4.)- the arbitrariness of the procedure by which costs eligible for federal reimbursement are determined.

Two forms of recovery assistance are available through Title IV and Title V of the Act. The first program provides support for repairing, restoring or replacing physical damage. The second program supports the economic recovery of the area, if "after the period of emergency aid and replacement of essential facilities

and services," such assistance is warranted. To our knowledge, assistance available under Title V has never been an option open to Florida. Therefore, the focus of the Federal Disaster Recovery Program has been to remove the "physical evidence" of the disaster, at the expense of addressing any cumulative impact the disaster had on the economic fiber of the affected area.

Through its rulemaking authority, FEMA now requires that post-disaster hazard mitigation planning be conducted in order to receive federal loans and grants available through a major disaster declaration. In addition, procedures to incorporate the eight-step decision-making process, stipulated in federal Executive Orders 11988 and 11990 (Management of Floodplains and Protection of Wetlands), into relief programs have been carried out. Programs such as these are essential to promoting prudent decision-making regarding future growth which Florida endorses and supports.

One of the most effective ways to promote the avoidance or reduction of future disaster potential is through a loss reduction program which provides financial incentives to induce the relocation or hazard proofing of facilities in dangerous areas. Any state or local commitment required by federal regulation that provides no recognition of such mitigation costs presents problems for effective implementation of a loss reduction program. The added dollar commitments required of state and local governments to implement these programs creates a strain on current manpower. This is a hardship that can affect both the hazard mitigation effort and the delivery system for critical needs of disaster victims. While the state concurs that such a commitment is necessary because

state and local governments have a large voice in managing growth and development, it should be a burden shared by all parties and not an undue hardship on selected actors in this process.

In the decision process on whether to grant a Presidential declaration, the Governor must certify that state and local obligations have been, or will be, committed for the event in question. In addition, the state's obligations must be a "significant proportion" of this commitment, and that these obligations must be a "reasonable amount" of the state and local funds "available for disaster purposes." However, there is no indication that a defined procedure has been developed to determine what is a "significant proportion" or a "reasonable amount." If there is such a procedure, no effort has been made to divulge to states the method of analysis used to determine this commitment. The argument that counters such a defined procedure is that "flexibility" is needed in this determination because no two disasters are alike. Florida concurs with the need for flexibility unless the concept is used in a manner that provides the opportunity for the federal government to pursue a "least cost" option for themselves at the expense of state and local governments - and ultimately the disaster victim. Furthermore, denying a Governor's request for a declaration based on the premise that the state has an adequate reserve in its treasury shows a lack of sensitivity to the legal obligations attached to a great percentage of these funds. The end result of this lack of guidance to state and local governments on what constitutes an appropriate commitment of state and local resources is a feeling that this decision process is at best arbitrary and capricious.

The definitions of "Emergency" and "Major Disaster" used by the Act, contribute to the feeling. Section 102 of the Act emphasizes natural hazards, while disasters caused or aggravated by manmade hazards may or may not be included in the vague phrase, "or other catastrophe." This lack of direction promotes confusion and ultimately leads to problems in providing assistance in an effective and timely manner because of limited congressional guidance on what constitutes a disaster caused by events other than natural hazards.

These definitions also emphasize the single catastrophic event. While this is realistic, it fails to consider the cumulative disaster impact resulting from a number of small events that do not meet the catastrophe threshold. An example of this type of event may be occurring in Florida at this very moment. The lack of rain this past winter and spring has resulted in wildfires that are the most destructive ever recorded. As of May 18, 1981, wildfires have burned approximately 385,000 acres (three times the acreage destroyed in 1980) resulting in a projected economic loss of 532 million dollars. This damage has been the result of many fires, both large and small, occurring concurrently. Yet, Florida stands little chance of receiving assistance even through the highly specialized Fire Suppression Program, because eligibility determination favors the large single fire, common only to the Western United States.

This myopic approach to the designation of a disaster fails to recognize the realities of emergency impacts. An emergency situation may represent requirements beyond the capabilities of state and local government, not only in a single catastrophic occurrence, but also when it is one of a series of concurrent emergencies, or simply represents the final or last of a number

of emergency situations which finally exhausts the resources available. Then individual events might simply affect a jurisdiction which, because of a number of other factors - non-emergency factors - finds itself operationally and fiscally unable to provide the necessary response.

Related to the problem of guidance is the administrative interpretation of what constitutes eligible costs for federal reimbursement. This issue goes beyond my previous comments. The language in P.L. 93-288 on this topic is not specific, reflecting Congressional intent to leave administrative detail to the appropriate agency. The Act does not discriminate among state and local costs or obligations. Accordingly, it is reasonable to assume that any disaster related costs may be identified and accepted as a commitment.

This lack of specificity and the broad range of possible disaster costs have made administration of the commitment requirement difficult. These problems have been worsened by the politics of disasters and declaration requests which seems to have contributed to a policy of strict interpretation on eligible costs.

Other significant costs are logically eligible for reimbursement to state and local governments. These costs are disaster related and are generally beyond the control of state and local jurisdictions.

FEMA has consistently insisted that only the costs incurred in or by "declared" communities can be considered for reimbursement by their agency or the state/local commitment. It is apparent that,

in many cases, non-declared counties are affected by a disaster and will also incur substantial costs. Such disaster-related costs must be acceptable as commitment, and should be considered by FEMA in any cost-sharing policy. An example is Miami (Dade County) providing resources to shelter hurricane evacuees from the Florida Keys - and having to "absorb" those costs because the hurricane did not directly strike Dade County. Such a policy could significantly undermine the regional hurricane evacuation planning approach both FEMA and the state are currently encouraging, to cope with the statewide problem of hurricane vulnerability.

In conclusion Mr. Chairman, there are some disaster or emergency situations that are so complex that procedures and guidelines cannot be formalized or standardized. The appropriate handling of these situations must be negotiated and determined in accordance to the circumstances when they occur. However, administration of the entire program should not remain arbitrary on the basis of these rare occurrences. Rather a standard must be established with rare situations dealt with on an "exception to the standard" basis.

Overall, Congress and the Administration should work with NGA in developing a reasonable and responsible cost-sharing policy. These hearings are a giant step in this direction. We look forward to a continued working relationship in this effort.

I appreciate this opportunity to appear before you, and will be happy to respond to any questions that you may have.

STATEMENT BY

WILBUR R. BUNTIN, JR.

EXECUTIVE DIRECTOR, KENTUCKY DISASTER AND EMERGENCY SERVICES

AND

PRESIDENT, NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

Mr. Chairman and distinguished members of the Subcommittee: I am pleased to represent the National Emergency Management Association and to present our position on the proposed amendments to Public Law 93-288 contained in S. 1216 and S. 1217. Since I represent the directors of emergency management agencies in the 50 states, the District of Columbia, the Territories and Trusts and the Canal Area, my remarks comprise a collective opinion of these proposals.

We are vitally concerned since these amendments are of unique importance to state and local governments. We deeply appreciate Congressional interest in our comments and the viewpoint of the affected groups within the emergency management community.

S. 1216 would bring a new element to PL 93-288 and related disaster programs. We support this amendment. By authorizing legal action when identifiable parties contribute to or cause events that result in emergency or major disaster declarations, this amendment should work toward conservation of limited and crucial disaster funds. Such action promises to be increasingly important under current economic conditions and in view of the growing number of declarations for events in which liability can be established. With diligent implementation by the Department of Justice this amendment may also encourage more responsible performance by many organizations.

Section 3 of S. 1217 would eliminate the existing rent-free provisions of the Disaster Temporary Housing Program. We accept this change as a reasonable measure to reduce costs in a particularly costly program. Since the cost of accommodations provided for disaster victims is to be based on fair market value as adjusted by financial ability, this change should not impose undue hardships on program beneficiaries. The housing program will remain available and disaster victims should not be unfairly penalized.

We are, however, deeply troubled by the cost-sharing measures proposed in Section 4 of S. 1217. We are fully aware of the necessity to economize and to keep the government budget within our means. Indeed, most of us are now struggling with the effects of drastically reduced state revenue, budget deficits and reductions in funding, staffing and capabilities. We do not oppose efforts to control expenditures nor do we seek a blank check for the programs we manage. Rather, we seek only support adequate to the basic needs of state and local governments in time of disaster. We ask that you carefully consider the implications of this cost-sharing proposal and that you direct the Federal Emergency Management Agency to re-examine the issue and to clarify questions related to this amendment.

I will address only three aspects of this cost-sharing proposal. First, the issue of "commitment"; second, the 75-25 cost-sharing proposal itself; and finally, alternatives to the proposal.

The question of commitment of resources by state and local government as established in Section 301 of the Act, has not yet been clearly addressed or resolved in implementing regulations. The Act requires a Governor, when requesting a major disaster declaration, to "certify" state and local obligations that have been or will be made for the disaster and for which federal reimbursement will not be requested. Similar requirements apply for emergency declarations.

State and local commitment must demonstrate that a "reasonable" share of state and local resources are designated for disaster purposes and are of significant proportion to meet the requirement of Section 301 of the Act.

The Act does not provide details about costs and obligations that can be accepted as commitment of state and local resources. Accordingly, it is reasonable to assume that all disaster-related costs should be accepted as commitment.

The absence of detail and the broad range of possible disaster costs have made administration of this commitment requirement difficult and inconsistent. These problems have been worsened by the politics of disasters and declaration requests. We believe these difficulties are largely responsible for efforts by FEMA to establish 75-25 cost-sharing requirements.

As presented in S. 1217, this cost-sharing proposal would require commitment in terms of costs eligible for FEMA reimbursement while disregarding a variety of other costs (National Guard activities, state share of IFGP, costs in non-declared counties). We believe this restraint would not allow adequate credit for many disaster costs. We also believe it would cause serious problems since it would permit no option of flexibility for FEMA to accept other costs as commitment.

Defining and identifying commitment has been one of the most difficult problems in previous disasters. This problem has caused extraordinary friction among federal, state and local representatives and has in some cases delayed delivery of crucial assistance. S. 1217 would establish 75-25 cost-sharing requirements in the law, but does not eliminate existing commitment requirements. This presents the strong possibility, if not probability, that the states may be required to "certify" commitment under existing requirements and, in addition, accept responsibility for 25 per cent of FEMA-reimbursable costs. This uncertainty is increased by the possibility that FEMA reimbursement will be restricted to specified eligible categories rather than cover all categories customarily available under P.L. 93-288. In these cases, the "cost-sharing" will obviously be accomplished at a ratio much less favorable to the states.

This proposal, we believe, does not solve the problems previously experienced with current commitment requirements. These same problems are likely to occur when FEMA attempts to determine who can and who cannot absorb a 25 per cent non-federal share.

We believe the proposal for cost-sharing offers no genuine assurance that the states will be less likely to request P. L. 93-288 assistance. To the contrary, states may be encouraged to "buy" a cheap declaration by claiming this 25 per cent share of FEMA-reimbursable costs as their commitment without using other resources or taking independent actions in disaster response.

We believe the proposed 25 per cent share in any truly catastrophic event (such as Hurricanes Camille and Agnes, the Appalachian floods of 1977, or a major earthquake) would far exceed state and local capacities. The availability of advance funds from FEMA would provide very little relief in such cases. Yet the proposal does not include options or alternatives. Additional questions are certain to appear following disasters which cause extensive loss of revenue and tax base. Communities involved would, in effect, be doubly penalized by commitment requirements, cost-sharing policy and loss of revenue.

Although we do not oppose efforts to assure equitable sharing of disaster-program costs, we believe there are reasonable and manageable alternatives to the proposal in S. 1217.

First, P. L. 93-288 could remain as is in regard to commitment and assistance provided under Sections 402 and 419. This preferred alternative would require only that FEMA provide improved definition and enforcement of commitment. The states would welcome clarification of commitment requirements and the equitable and consistent implementation of these requirements.

If this proposed cost sharing provision must be adopted, a second alternative could be that the existing commitment requirements stated in Section 301 of the Act be specifically terminated. This step should be accomplished by deleting requirements for the Governor to certify state and local obligations and inserting language specifying that state and local units must fund 25 per cent of FEMA-reimbursable costs.

A third alternative is to permit 100 per cent reimbursement for debris removal and emergency measures, as these categories are presently administered by FEMA, while requiring cost sharing for other categories of disaster work. This distinction among categories is reasonable since permanent repair or replacement generally involves "improvement" of facilities, while emergency work (debris removal and emergency measures) normally includes only items which must be done expeditiously or temporarily. It is reasonable to require state and local governments to participate in the costs of "improvements". This provision would be accomplished by revision of Section 402 (e) and deletion of Section 402 (f) and 419.

With any cost-sharing provisions, the Act must provide a "forgiveness" capability. Experience demonstrates that single major disasters or sequential disasters can destroy any reasonable capability for state/local government to absorb these costs. The advance of funds mechanism described in S. 1217 would provide no relief in such cases since repayment would be required. We believe a "forgiveness" mechanism, with appropriate safeguards, is absolutely essential for truly catastrophic events.

In conclusion, P. L. 93-288 has been implemented in over 200 Presidentially declared major disasters and many emergencies. Difficulties have arisen only in the most recent disasters in which FEMA has unilaterally and arbitrarily enforced 75-25 cost-sharing. We believe the Act as written includes ample provisions to assure proper use of state/local resources and adequate mechanisms to assure that federal aid is supplemental to those resources. We believe the stated purposes of the amendment can be achieved through improved and more consistent administration of existing requirements and by clarification of state and local commitment.

I have attached recommended changes to the language that would clarify the 75 per cent cost-sharing by the federal government.

It has been my distinct pleasure and honor to appear before you today, I assure you of the full cooperation of the National Emergency Management Association as you endeavor to improve the preparedness of our nation.

ALTERNATIVE 1. Requires no change to PL 93-288

ALTERNATIVE 2. Change sub section 301 (b) PL 93-288 by inserting a period (.) following "disaster" in line No. 11; delete ", and shall certify ... disaster."

1

Amend Section 402 (e) to read:

"The Federal Contribution for grants made under this section shall be 75 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards."

2

Delete Section 402 (f) - with cost sharing flexible funding makes no sense.

3

Amend Section 419 - change line 10 to read "Such Federal contribution shall be based upon 75 per centum of such total ..."

4

ALTERNATIVE 3. Requires significant new language in the Act.

- # 1 Delete Section 419
- # 2 301 (b) would be changed as in # 1 above.
- # 3 A new section 402 (e) required. Should read: "The Federal contribution for grants for debris removal and emergency measures shall be 100 per centum of the net costs of these activities, while the Federal contribution for other grants made under this section shall not exceed 75 per centum (then as in # 2 above).

ALTERNATIVE 4. Forgiveness clause. Might be placed almost any where in the Act.

Recommend make it a new 402 (f) if flex funding is removed.
Propose following language -

"Notwithstanding the provisions of any other section of this Act, the President is authorized to waive the per centum limitations upon Federal contributions to State and local governments in such cases when the magnitude of damages or potential damages from a single disaster or emergency or from multiple declarations result in state or local shares which exceed state and local financial capabilities and advances of federal funds cannot be repaid to the United States without undue hardship upon the affected state and local governments or without endangering the financial stability of those state and local governments."

Proposed Amendment to Increase Federal Reimbursement for IFGP Administrative Costs

Section 408 (d)

"Federal reimbursement to a State for the expenses of administering grants under this section shall not exceed 5 per centum of the Federal contribution for grants to individuals and families, provided that when administrative costs exceed 5 per centum, additional federal reimbursement not to exceed 50 per centum of these additional costs shall be paid to the State."

American Red Cross

National Headquarters
Washington, D.C. 20006

Statement by William J. Sande, Vice President
The American Red Cross
for the Subcommittee on Regional and Community Development
Committee on Environment and Public Works
United States Senate
July 21, 1981

Mr. Chairman. I am William J. Sande, Vice President of the American Red Cross. I have management responsibility for the organization's disaster services. With me is Mr. Robert D. Vessey, National Director of Red Cross Disaster Services.

We appreciate the opportunity to appear before the Subcommittee on Regional and Community Development of the Committee on Environment and Public Works as it conducts these oversight and reauthorization hearings related to the Disaster Relief Act of 1974 and other pending legislation dealings with disaster response and the needs of disaster victims.

Almost eight years ago, the Red Cross was privileged to present its position before this Subcommittee's predecessor as it was considering the legislation which ultimately became the Disaster Relief Act of 1974.

Four years ago, we appeared before this Subcommittee to review our subsequent experiences with the implementation of the various programs provided under the 1974 Act. Today, we want to bring those observations up to date in light of our experiences during another four years, years

in which the world of disaster preparedness and response was enlarged to include the accident at Three Mile Island, the problems created by the chemical dump at Love Canal, a steady increase in the number of evacuations following transportation-related and other hazardous chemical spills, and the unexpected impact of Mt. St. Helens.

These new dimensions to disaster preparedness and response took on a special significance for us in the Red Cross because this year marks the Red Cross centennial. It will be one hundred years ago this September that the then brand new American Red Cross sent relief supplies and personnel to the scene of the great Michigan forest fires. Those supplies moved by boat, train and pack mule. Communication was by telegraph. Today, the Red Cross and governmental agencies utilize everything from helicopters to satellites to speed help to disaster victims.

The American Red Cross role in disaster relief was formalized by Congress in June of 1900 and affirmed by the Act of Congress of January 5, 1905, as amended (36 U.S.C. Section 1 and Following), entitled, "An Act to Incorporate the American National Red Cross." Because of its disaster relief mandates and other duties vested in the corporation under its charter by Congress, the Supreme Court of the United States unanimously concluded that the American National Red Cross is an instrumentality of the United States. (Department of Unemployment v. United States, 87 S. Ct. 464, 385 U.S. 355 (1966)). This role has been reaffirmed by the Congress as recently as in the Disaster Relief Act of 1974 and has been further defined in Statements of Understanding between the Red Cross and

the Federal Disaster Assistance Administration and the Defense Civil Preparedness Agency, documents which have been considered to apply to the Red Cross' working relationship with the Federal Emergency Management Agency while a new Statement of Understanding with FEMA itself is being developed. The Red Cross also has working agreements with other federal and many state and local units of government as well as with 23 voluntary groups involved in disaster-related programs. The Red Cross has been consistently recognized by all branches of the Federal Government as the nation's official instrumentality for bringing voluntary aid to disaster victims.

From its beginnings in 1881, the Red Cross disaster program has grown to the point that in 1979-80, the last fiscal year for which we have complete statistics, Red Cross chapters throughout the United States and its territories responded to more than 40,000 disaster situations. We have welcomed the expanded role of government in providing disaster assistance, for it is no longer possible for agencies supported by voluntary contributions to meet more than the most pressing emergency needs of large numbers of people affected by disaster, although the Red Cross does try to meet additional needs of disaster victims for whom government programs are inadequate or unavailable. The Red Cross program, therefore, is primarily one of providing emergency assistance, first in the form of mass shelters, feeding stations, clothing distribution, cleaning supplies, supplementary medical care, provision of blood and blood products, and handling of welfare inquiries from anxious relatives outside the disaster area. As soon as families can begin to resume living as family units, we also provide emergency assistance in the form of funds for food, clothing,

certain essential furnishings, minor repairs to homes, rent, transportation, medical and health needs—including replacement of lost dentures, eyeglasses, prescription drugs and prosthetic devices and replacement of personal occupational supplies and equipment. It is only when government programs are unavailable or inadequate that we provide additional assistance involving more extensive repairs to homes and replacement of other essential household contents.

The Red Cross has also participated in many ways in the nation's enemy-attack related civil defense programs and during the past year, for example, has been involved with government in activities related to energy problems, civil disorders, drought, train derailments, planning for mass repatriation of American civilians living abroad, nuclear accident response planning and planning for major earthquakes that are expected to occur in various parts of the United States. Forty Red Cross disaster experts were assigned to work with Pennsylvania officials in planning for the potential evacuation at Three Mile Island. The Red Cross works closely with government at all levels in both disaster preparedness planning and disaster relief operations.

In other words, the Red Cross has had and continues to have a close-up view of federally-funded programs as they have expanded since the early 1960's and as they have been brought into sharper, more coordinated focus by the Disaster Relief Act of 1974 and, more recently, by the creation of the Federal Emergency Management Agency. We have over the years observed and often experienced the same frustrations which state and local officials and disaster victims have had in dealing with those programs,

for in spite of the sound intentions inherent in the programs and the high degree of competence on the part of the people implementing them, it has not been easy to overcome the fragmentation of federal efforts. That fragmentation of emergency planning, response and hazard mitigation programs has in the past led to duplication, competition and confusion and situations in which the policies of one program were sometimes in conflict with the policies of another. This situation imposed on the potential and real disaster victims a confusing burden of procedural requirements that were only slightly mitigated by the establishment of so-called "one-stop" centers. Remarkable progress has been made in the federal government's efforts to bring order out of chaos and achieve the goals of bringing help to disaster victims in a timely, efficient, cost-effective manner while avoiding duplication of assistance.

We applaud those efforts and the progress that has been made, but must temper our applause with concern that this progress not be slowed or even reversed by retrenchments in related programs or procedural changes that add to or perpetuate the burdens of disaster victims seeking help they urgently need.

We also want to express our support for proposals that have been put before this subcommittee that will, in our view, expedite assistance to disaster victims. Specifically, our concerns are as follows:

1. The Red Cross testified in 1973 that we believed that giving the Section 408 individual family grant program to the states to administer could lead to fifty different programs of varying degrees of effectiveness. To some extent, this continues to be the case; the Individual

Family Grant Program is certainly not a model of timely delivery of assistance to disaster victims. After Hurricane Frederic, in 1978, it took the states of Alabama and Mississippi as long as eighteen months to complete the processes involved in issuing grants. Thus it was only a year and a half after the disaster occurred that we could begin determining if those families had additional needs which the Red Cross would meet. In States like New York and Pennsylvania there were political problems that caused delay of a year or more after the onset of the disaster before Individual Family Grant checks were provided to the families involved. Texas has been another state where the process has been slow and unwieldy, although after Hurricane Allen in August, 1980 the time lag between the disaster and issuance of the last check was reduced to seven months as compared to earlier experiences where it took much longer. Yet even within this shorter time frame, it took 26 days from the time the first case was approved to the time the check was issued.

We know that the slow, untimely implementation of the Individual Family Grant Program in many of the states has been distressing to FEMA as well as to disaster victims. It has slowed the pace at which the Red Cross has been able to move on situations where victims need help over and beyond that provided by the Grant, and, in fact, those delays have necessitated additional costs for maintaining staff in the field. We believe also that part of the problem is that implementation of the Section 408 Grant Program has been delegated to state agencies that are already overburdened or which cannot fund the administrative costs involved.

It is with this experience in mind that the Red Cross supports proposed

amendments to the Disaster Relief Act of 1974 that would provide incentives in the form of a fifty percent reimbursement for administrative costs--over and beyond the three percent presently allowed--for states that complete the program in a timely manner. We hope this incentive will be linked to a system whereby the grant program is closely monitored by FEMA to assure that the grants are administered in a timely and effective manner so that urgent, disaster-caused needs are promptly met.

2. Assisted by Red Cross, FEMA has been attempting to streamline the various processes through which the disaster victim has struggled by developing a combined application and verification process. The Red Cross also has participated with FEMA in several tests of the process. We are concerned that because of problems that developed when the process was tested after Hurricane Allen, the Small Business Administration has indicated its desire to return to a separate application and verification process. While we know that this subcommittee has no jurisdiction over the SBA's disaster loan program, we believe that continued joint participation by SBA in a combined application process--involving also temporary housing and the individual family grants--is essential if assistance to disaster victims is to be timely, cost-effective and non-duplicative. It is an unfortunate fact of life that other programs, such as the 408 Grants, in some states are based on a procedural requirement that the applicant first be rejected for an SBA loan. This can be a long, drawn out affair. It subjects disaster victims to an unnecessary wait on the movement of their applications through the SBA system. We hope that the committee members, as members of the United States Senate, will use what influence they have on their colleagues considering SBA-related

legislation, to urge that SBA be a continuing part of the streamlined process now in development.

3. We urge the members of this Subcommittee also to take a hard look at H.R. 2997 if and when that legislation comes before the Senate. This is a bill that would alter the SBA's disaster loan program in ways that would lead to higher interest rates for victims and possibly cause additional delays in the processing of a victim's various applications for assistance, thus adding to the financial and emotional burdens of recovery.

4. As an organization involved not only in disaster preparedness and relief but in supporting efforts at hazard mitigation, we support S. 1216, which would authorize the Attorney General of the United States to seek reimbursement of federal expenditures from parties whose acts of commission or omission led to the need for a Presidential Declaration of an emergency or major disaster. While this has obvious implications in situations involving man-made disasters---such as nuclear power plant accidents or chemical spills---it could also provide the basis for action against political subdivisions whose elected or appointed officials knowingly permitted residential or other development in known flood or earthquake or other hazard areas. The possibility of such legal action and fiscal penalty might be the deterrent that has been missing so far in the effort to mitigate losses caused by unwise utilization of potentially hazardous areas.

5. We urge the Subcommittee and its staff to consider the question

of whether the law should hold power companies or other industries working with hazardous materials liable for the cost of emergency services, drills and evacuations in the event of accidents at their plants or when such materials are being transported. We recommend this because of our experience at Three Mile Island and in numerous evacuations where company liability existed but was not used to defray such costs. Just recently, one county refused to participate in a drill involving TMI because it did not have the funds to pay for participation in the drill. This kind of situation should be clarified in law.

6. S. 1217 substantially alters Section 404 (a) of the Disaster Relief Act of 1974 eliminating the presently provided one year's rent free temporary housing, and substitutes a program based on the financial ability of the occupant to pay all or part of the cost of the temporary housing involved. The Red Cross agrees that the existing program may have provided rent-free housing to many disaster victims who could have paid all or part of the rentals involved, but we want to emphasize the importance of the words, "to take into consideration the financial ability of the occupant." This is the key to successful and equitable implementation of the amendment. We urge that this Subcommittee include in the amendment the specification that an adequate system be devised to determine the ability of the occupant to pay---such a system should be related to other disaster assistance programs for which the person may have applied---and be closely monitored by FEMA. This would tend to assure that disaster victims are fairly treated and that all other financial obligations are truly considered.

Like the combined application and verification process, a temporary housing program such as that implied by the amendment in S. 1217 calls for close coordination and cooperation between Federal agencies, the Red Cross and other agencies involved in a given operation. The Subcommittee can be assured that the Red Cross will cooperate in every appropriate way.

7. We have another concern about the temporary housing program.

In recent years, there has been a movement towards giving this program, too, to the states to implement. Although this has been successful in several small disasters, we do not believe all states will maintain the expertise to administer this kind of temporary housing program, which may involve rental housing, mass movement of mobile homes into an area, and extensive home repair activity. We understand there are other proposals that would authorize turning temporary housing over to the states. Inasmuch as the successful activation of a temporary housing program in time of disaster calls for immediate application of special expertise, which would be infrequently used, we urge that the Subcommittee retain in any amendments dealing with this subject language that would make state operation of the program optional. FEMA could thus retain the responsibility for implementing temporary housing when necessary. Again, the maximum inter-agency cooperation will be required to assure that those persons with temporary housing needs have those needs met on a timely basis. In summary, we believe that flexibility of the present law and regulations should be retained.

8. We support changing current legislation in order to give the President the right to designate a Federal Coordinating Officer in undeclared emergency and disaster situations. While the Red Cross response,

including availability of supportive federal programs, does not depend upon a declaration, there should in many instances be an FCO on site who can begin planning for federal agency actions and coordinate such actions as are initiated to protect or save lives and property even in the absence of a Presidential Declaration. Three Mile Island is a case in point.

9. We urge, too, that the Subcommittee be concerned about possible changes in the availability of food stamps or disaster-related unemployment insurance that are implied by either reductions in the food stamp program per se, or in proposed amendments to the Disaster Relief Act of 1974. Any such retrenchments in available programs places an additional hardship on disaster victims at a time when they can least afford such hardships. Such retrenchments could also mean that the disaster victims would have to turn to voluntary relief agencies, and perhaps, public welfare, to make up the reductions in the kind of basic assistance provided by the disaster food stamp and unemployment insurance programs. This could, in turn, overburden the limited financial and manpower resources of voluntary and public welfare agencies.

Mr. Chairman, this is a long statement, based on 100 years of concern for disaster victims. It is also predicated on the fact that voluntary contributions can no longer be raised in amounts sufficient to meet the kinds of needs they once met prior to the advent of government disaster assistance programs. Additionally, the private sector cannot guarantee its ability to meet such needs if they increase because of reductions in government-funded benefits. While we highly support moves to achieve better program administration, increased cost effectiveness and the elimination of

possible fraud and the duplication of benefits, disaster sufferers are generally victims of circumstances far beyond their control. They need immediate assistance in restoring normal patterns of life. We hope, therefore, that this Subcommittee will look at the proposed amendments in terms of people who need help, not merely in terms of system and procedure. It is a principle that has governed the administration of the Red Cross disaster program for 100 years. We urge that the members of this Subcommittee join us in viewing the outcome of these hearings from that point of view.

We will be happy to answer any questions you and other Subcommittee members may have.

STATEMENT OF
ALBERT ABGOTT
LEGISLATOR
OF
ERIE COUNTY, NEW YORK
AND
CHAIRMAN FOR EMERGENCY MANAGEMENT
NATIONAL ASSOCIATION OF COUNTIES'

SUMMARY OF THE NATIONAL ASSOCIATION OF COUNTIES'
STATEMENT ON THE DISASTER RELIEF ACT OF 1974

- 100 PERCENT FUNDING SHOULD BE PROVIDED TO STATE AND LOCAL GOVERNMENTS FOR APPROVED PUBLIC ASSISTANCE PROJECT APPLICATIONS.
- REGULATIONS SHOULD BE SIMPLIFIED AND CLARIFIED.
- BLOCK GRANTING, BASED ON DAMAGE SURVEY ESTIMATES, SHOULD BE DEvised TO EXPEDITE REIMBURSEMENT.
- CERTAIN INELIGIBLE COSTS SHOULD BE MADE ELIGIBLE COSTS.
- ONLY WITH REGULATORY RELIEF, BLOCK GRANTING AND THE TRANSFER OF SOME INELIGIBLE COSTS TO ELIGIBLE COSTS CAN NACO SUPPORT 75 PERCENT REIMBURSEMENT.
- A SINGLE CONGRESSIONAL OVERSIGHT COMMITTEE SHOULD BE ESTABLISHED FOR ALL FEMA PROGRAMS.

STATEMENT OF ALBERT ABGOTT, LEGISLATOR, ERIE COUNTY, NEW YORK AND CHAIRMAN FOR EMERGENCY MANAGEMENT, NATIONAL ASSOCIATION OF COUNTIES* CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES BEFORE THE UNITED STATES SENATE SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS REGARDING THE DISASTER RELIEF ACT OF 1974 (PL 93-288)

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, MY NAME IS ALBERT ABGOTT. I AM PLEASED TO APPEAR BEFORE YOU AND PRESENT THE VIEWS OF THE NATIONAL ASSOCIATION OF COUNTIES (NACo) ON THE DISASTER RELIEF ACT OF 1974. AS FORMER CHAIRMAN AND CURRENT MEMBER OF THE ERIE COUNTY LEGISLATURE, I AM ALL TOO FAMILIAR WITH BOTH ACTUAL AND POTENTIAL DISASTERS. ALLOW ME TO PRESENT SOME BACKGROUND INFORMATION ON OUR SITUATION IN ERIE COUNTY.

IN THE LAST FIVE YEARS, WE HAVE HAD TWO PRESIDENTIALLY DECLARED DISASTERS -- THE ICE STORM OF '76 AND THE BLIZZARD OF '77. WE HAVE A LOCAL STATE OF EMERGENCY ON THE AVERAGE OF ONE PER YEAR AND THE ALERTS ARE RUNNING ABOUT THREE PER MONTH. OUR ALERT SYSTEM NOTIFIES RESPONSE UNITS WHENEVER IT APPEARS THAT WE HAVE AN EMERGENCY WHICH MAY EXCEED A PARTICULAR LOCAL JURISDICTION'S RESPONSE CAPABILITY. MOST OF OUR ALERTS ARISE FROM HAZARDOUS MATERIALS INCIDENTS, FOR WHICH THERE IS GREAT POTENTIAL IN ERIE COUNTY.

WE ARE LOCATED WITHIN 50 MILES OF A MAJOR NUCLEAR POWER PLANT, WE ARE CAUGHT BETWEEN LOVE CANAL IN NIAGARA COUNTY AND WEST VALLEY IN CATTARAUGUS COUNTY, AND THERE ARE MANY CHEMICAL PLANTS THAT MANUFACTURE, STORE AND TRANSPORT HAZARDOUS MATERIALS THROUGH THE COUNTY. WE ALSO HAVE HYDROELECTRIC POWER PLANTS, SEVERAL AIRPORTS, INTERSTATE HIGHWAYS, A HARBOR AND SEVERE WEATHER CONDITIONS.

* THE NATIONAL ASSOCIATION OF COUNTIES IS THE ONLY NATIONAL ORGANIZATION REPRESENTING COUNTY GOVERNMENT IN THE UNITED STATES. THROUGH ITS MEMBERSHIP, URBAN, SUBURBAN AND RURAL COUNTIES JOIN TOGETHER TO BUILD EFFECTIVE, RESPONSIVE COUNTY GOVERNMENTS. THE GOALS OF THE ORGANIZATION ARE: TO IMPROVE COUNTY GOVERNMENT; TO SERVE AS THE NATIONAL SPOKESMAN FOR COUNTY GOVERNMENTS; TO ACT AS A LIAISON BETWEEN THE NATION'S COUNTIES AND OTHER LEVELS OF GOVERNMENT; AND TO ACHIEVE PUBLIC UNDERSTANDING OF THE ROLE OF COUNTIES IN THE FEDERAL SYSTEM.

WE ARE AWARE OF THE HAZARDS AND THE RISKS THEY POSE. WE ARE CONCERNED ABOUT POTENTIAL DISASTERS AND WE HAVE TAKEN STEPS TO PREPARE FOR THEM. THERE ARE 1.1 MILLION RESIDENTS WHO LOOK TO THE COUNTY AND LOCAL GOVERNMENTS TO TAKE THIS LEADERSHIP. WE HAVE A OFFICE OF DISASTER PREPAREDNESS AT THE COUNTY LEVEL THAT LINKS 25 TOWNS, 16 VILLAGES AND 3 CITIES TOGETHER INTO ONE COMPREHENSIVE EMERGENCY MANAGEMENT NETWORK. THIS BECOMES QUITE A TASK WHEN YOU CONSIDER THAT WE MUST INTEGRATE 24 POLICE DEPARTMENTS IN ADDITION TO 8 AUXILIARY CIVIL DEFENSE POLICE FORCES AND THE COUNTY SHERIFF'S OFFICE, PLUS 94 VOLUNTEER FIRE COMPANIES, 2 PAID AND 2 PARTLY PAID FIRE DEPARTMENTS, AND DOZENS OF OTHER PREPAREDNESS AND RESPONSE AGENCIES INTO ONE EMERGENCY MANAGEMENT SYSTEM.

I GIVE THIS BACKGROUND INFORMATION TO DEMONSTRATE TO YOU THAT ERIE COUNTY, LIKE MOST COUNTIES, HAS A CONSIDERABLE INVESTMENT IN A DISASTER PREPAREDNESS SYSTEM. WE, LIKE MOST COUNTIES, EXPERIENCE THOUSANDS OF SMALL-SCALE EMERGENCIES EACH YEAR AND WE RESPOND TO THESE INCIDENTS WITH RESOURCES DERIVED PRIMARILY FROM LOCAL TAX REVENUES.

WHEN AN EXTRAORDINARY EMERGENCY OCCURS, HOWEVER, LOCAL RESOURCES, NO MATTER HOW WELL ORGANIZED, SUDDENLY BECOME INADEQUATE AND OUTSIDE HELP IS NEEDED. IT IS ONLY REASONABLE THAT A FEDERAL DISASTER RELIEF PROGRAM WOULD SHARE THE BURDEN WHEN SUCH A DISASTER SITUATION OCCURS.

YET, THERE IS A SERIOUS EFFORT NOW TO LIMIT FEDERAL AID TO 75 PERCENT OF ELIGIBLE COSTS FOR PUBLIC ASSISTANCE TO STATE AND LOCAL GOVERNMENTS. I WANT TO WARN YOU AGAINST ADOPTING THIS LIMIT. IT COULD HAVE DIRE CONSEQUENCES WHEN DISASTER COSTS, RELATIVE TO COMMUNITY RESOURCES, ARE EXTREMELY HIGH.

LOCAL GOVERNMENTS ARE ALREADY CARRYING THE BURDEN OF RESPONDING TO ROUTINE EMERGENCIES. AS EMERGENCY CONDITIONS ESCALATE, SO DO COSTS. THE POLITICAL AND ECONOMIC CONSEQUENCES OF DECLARING A LOCAL STATE OF EMERGENCY CANNOT BE TAKEN LIGHTLY. WHEN A DISASTER REACHES THE LEVEL OF A PRESIDENTIAL DECLARATION, LOCAL GOVERNMENTS CONTINUE TO CARRY A SUBSTANTIAL PORTION OF THE EXPENDITURES IN THE FORM OF INELIGIBLE COSTS. THESE COSTS CAN RANGE FROM 15-30 PERCENT OF THE TOTAL LOCAL GOVERNMENTS EXPENDITURES REQUIRED TO REPAIR DAMAGES AND RESTORE LOCAL COMMUNITIES TO NORMAL.

THEREFORE, WHEN WE ASK FOR 100 PERCENT FUNDING ON PUBLIC ASSISTANCE PROJECTS, WE ARE REALLY RECEIVING ONLY 70-85 PERCENT FUNDING. THOSE WHO RECOMMEND 75 PERCENT ARE REALLY SAYING THE FEDERAL SHARE SHOULD BE LIMITED TO 45-60 PERCENT.

NACO AGREES WITH THOSE WHO RECOMMEND A 75 PERCENT LIMIT THAT DISASTER RELIEF SHOULD BE SUPPLEMENTAL TO LOCAL DISASTER EFFORTS AND IT SHOULD NOT PAY FOR WHAT STATE OR LOCAL GOVERNMENTS WOULD PAY FOR UNDER NORMAL CONDITIONS. NACO ALSO AGREES THAT THERE SHOULD BE EVERY ATTEMPT TO BALANCE THE FEDERAL BUDGET. BUT, WE DO NOT AGREE THAT IT SHOULD BE DONE BY MERELY SHIFTING COSTS FROM THE FEDERAL TO STATE AND LOCAL GOVERNMENTS.

THE DISASTER RELIEF PROGRAM IS NOT A FEDERAL DOLE. IT DOES NOT PROVIDE FUNDS, SERVICES, OR EQUIPMENT OVER AN EXTENDED PERIOD OF TIME. IT IS LIMITED TO A RELATIVELY SHORT PERIOD DURING WHICH IT HAS BEEN DETERMINED JOINTLY BY LOCAL, STATE AND FEDERAL OFFICIALS THAT, DUE TO UNCONTROLLABLE FORCES, DAMAGES HAVE OCCURRED TO A COMMUNITY THAT FAR EXCEED ITS CAPABILITY TO RESTORE OR REPAIR.

AT THAT POINT, A COMMITMENT SHOULD BE MADE TO THE LOCAL GOVERNMENT BY THE FEDERAL GOVERNMENT TO PROVIDE AID THAT WILL PUT THAT JURISDICTION BACK IN OPERATION AND ENABLE IT TO HELP RESTORE THE REST OF THE COMMUNITY BACK TO NORMAL AS SOON AS POSSIBLE. LOCAL GOVERNMENTS CANNOT OPERATE WITH A DEFICIT BUDGET. UNLESS A LOCAL TAX ANTICIPATION NOTE CAN BE ISSUED--KEEPING IN MIND THAT THE REVENUE BASE MAY HAVE BEEN REDUCED--OR CREDITORS ARE WILLING TO EXTEND PAYMENTS OVER LONG PERIODS, MUCH OF THE DISASTER DAMAGE SIMPLY WILL NOT BE REPAIRED. COUNTY RESIDENTS WILL WALK LONG DISTANCES BECAUSE BRIDGES ARE NOT REPLACED OR ROADS ARE NOT REPAIRED, AND THE LOCAL ECONOMY IS STYMIED BECAUSE FULL GOVERNMENT SERVICES ARE NOT RESTORED.

IT IS UNREASONABLE FOR STATE AND FEDERAL GOVERNMENTS TO AGREE THAT DAMAGE COSTS EXCEED STATE AND LOCAL RESOURCES, AND THEN REQUIRE LOCAL JURISDICTIONS TO PUT UP

ANOTHER 25 PERCENT AS MATCH TO THE FEDERAL DISASTER RELIEF PROGRAM. THE FEDERAL EMERGENCY MANAGEMENT AGENCY NOW HAS THE DISCRETION TO NEGOTIATE LESS THAN 100 PERCENT. THE CHANGE TO 75 PERCENT WOULD LIMIT ADMINISTRATION DISCRETION TO FUND AT 100 PERCENT WHEN LOCAL CONDITIONS JUSTIFIED IT. WE URGE YOU TO KEEP THE LANGUAGE THAT ALLOWS UP TO 100 PERCENT FEDERAL FUNDING FOR PUBLIC ASSISTANCE GRANTS.

IT HAS BEEN PROPOSED THAT STATE GOVERNMENTS CONTRIBUTE A LARGER SHARE OF LOCAL DAMAGE COSTS. THIS MAY SOUND LIKE A GOOD IDEA, BUT WE, AT THE LOCAL LEVEL CANNOT COUNT ON IT. MOST STATES DO PROVIDE AID IN THE FORM OF EQUIPMENT, OR SERVICES, BUT FINANCIAL ASSISTANCE USUALLY REQUIRES AN ACT OF THE STATE LEGISLATURE. IF THE DISASTER DOES NOT COINCIDE WITH A LEGISLATIVE SESSION, THERE WILL BE A DELAY IN THE OBLIGATION OF FUNDS. EVEN THEN, HISTORY HAS SHOWN THAT WE CANNOT EXPECT SUBSTANTIAL AID FROM STATE SOURCES.

I WOULD LIKE TO SAY A FEW WORDS ABOUT THE DISASTER RELIEF REGULATIONS WHICH, I AM AFRAID, HAVE BECOME RATHER CUMBERSOME. COUNTY OFFICIALS WHO HAVE TAKEN ADVANTAGE OF THE DISASTER RELIEF PROGRAM OFTEN EXPERIENCE FRUSTRATION DELAYS AND PAPERWORK EXERCISES THAT WE BELIEVE, COULD BE REDUCED OR ELIMINATED. SOME REGULATIONS SUCH AS COST DOCUMENTATION AND DAMAGE SURVEYS, ARE ESSENTIAL TO GOOD MANAGEMENT. YET, WE FIND A GENERAL CONSENSUS THAT SOME REGULATIONS HAVE GROWN TO BE EXCESSIVE.

FOR EXAMPLE, TO DISALLOW FRINGE BENEFITS AND CERTAIN SUPERVISORY OVERTIME COSTS BECAUSE THEY ARE CONSIDERED PART OF NORMAL GOVERNMENT OPERATIONS IS FINE IN PRINCIPLE, BUT IT CREATES THE PAPERWORK PROBLEM OF SEPARATING THE COST FIGURES. WE WISH THAT A MORE FLEXIBLE APPROACH TO THE PRINCIPLE OF PAYING ONLY SUPPLEMENTARY COSTS COULD BE TAKEN.

WHY DOES EACH LEVEL OF GOVERNMENT, ABOVE THE LOCAL LEVEL, NEED TO SCRUTINIZE IN DETAIL ALL THE DAMAGE SURVEY REPORTS? IT WOULD SEEM THAT ONE REVIEW COULD PROVIDE AN ADEQUATE CHECK ON LOCAL ESTIMATES.

CLEARER GUIDELINES ARE NEEDED ON WHAT RECORDS MUST BE KEPT BY LOCALITIES AS WORK IS CONTRACTED OUT OR PERFORMED BY GOVERNMENT FORCES. LOCAL GOVERNMENTS ARE PENALIZED AN UNKNOWN AMOUNT OF FUNDS AFTER EACH DISASTER SIMPLY BECAUSE THEY WERE MISINFORMED ON WHAT RECORDS TO KEEP.

SMALL PROJECT GRANTS COULD BE MADE AVAILABLE ON THE BASIS OF \$25,000 PER PROJECT RATHER THAN \$25,000 PER APPLICANT. ALSO, VARIOUS FORMS OF BLOCK GRANTING SHOULD BE CONSIDERED WHICH WOULD ALLOW LOCALITIES TO RECEIVE LUMP SUMS OF MONEY AS SOON AS DAMAGE SURVEYS ARE COMPLETED BASED ON TOTAL ESTIMATES DETERMINED BY THE SURVEY TEAM. THIS WOULD ELIMINATE THE TIME CONSUMING LINE ITEM PROCESS OF JUSTIFYING EACH PROJECT APPLICATION THROUGH THE ENTIRE STATE AND FEDERAL REVIEW PROCESS.

DISALLOWING ADMINISTRATIVE COSTS RELATED TO OBTAINING FEDERAL REIMBURSEMENTS, SUCH AS DAMAGE ASSESSMENTS, TRANSFERS MORE AND MORE COSTS TO THE APPLICANT AS REGULATIONS INCREASE. AFTER A FLOOD IN JANUARY, 1980, THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT RECEIVED \$24 MILLION IN DAMAGE AND SPENT \$6 MILLION, OR 25 PERCENT ON NON REIMBURSABLE ITEMS. IF THE 75 PERCENT POLICY WERE ADOPTED, THE LOCAL SHARE WOULD BE 50 PERCENT, OR \$12 MILLION.

WE STRONGLY RECOMMEND THAT IF A POLICY OF 75 PERCENT REIMBURSEMENT IS ADOPTED THEN SOME OF THE INELIGIBLE COST ITEMS BE MOVED INTO THE ELIGIBLE CATEGORY. ONLY IF WE ARE ASSURED OF REGULATORY RELIEF, BLOCK GRANTING AND A TRUE REIMBURSEMENT RATE OF 75 PERCENT CAN WE SUPPORT THE CURRENT PROPOSAL OF 75 PERCENT FUNDING FOR PUBLIC ASSISTANCE PROJECTS.

WE ARE QUITE CONCERNED THAT THE REGULATIONS AND THE AMOUNT OF PAPERWORK HAS GROWN SO MUCH IN THIS PROGRAM THAT IF A REALLY MAJOR DISASTER WOULD OCCUR, THE REIMBURSEMENT PROCESS WOULD TOTALLY BOG DOWN. THE CURRENT SET OF REGULATIONS HAS EVOLVED OVER THE YEARS TO PREVENT ABUSES IN RELATIVELY SMALL DISASTER SITUATIONS. I AM AFRAID THAT IF A MAJOR EARTHQUAKE OCCURRED IN CALIFORNIA TOMORROW, THESE REGULATIONS WOULD TEND TO TURN RESPONSE INTO PARALYSIS.

I WOULD LIKE TO MAKE A FINAL COMMENT ON THE CONCEPT, UPON WHICH THE FEDERAL EMERGENCY MANAGEMENT AGENCY WAS CREATED, CALLED COMPREHENSIVE EMERGENCY MANAGEMENT, AND HOW IT RELATES TO DISASTER RELIEF. UNDER THE CEM CONCEPT, THERE ARE FOUR TYPES OF DISASTER ACTIVITIES--MITIGATION, PREPAREDNESS, RESPONSE AND RECOVERY. THE OBJECTIVE IS TO INTEGRATE THESE ACTIVITIES INTO A COMPREHENSIVE MANAGEMENT SYSTEM. IN OTHER WORDS, WE SHOULD EMPHASIZE THE MITIGATION, OR PREVENTION, OF DISASTERS AS WELL AS ADEQUATE RESPONSE TO DISASTERS. AND IT SHOULD BE DONE IN A COOPERATIVE MANNER AMONG PRIVATE, LOCAL, STATE AND FEDERAL GROUPS AND AGENCIES.

IN ERIE COUNTY WE HAVE ADOPTED THE CONCEPT IN ORDER TO KEEP DAMAGE COSTS TO A MINIMUM. MANY OTHER LOCALITIES HAVE DONE THE SAME. FOR EXAMPLE, PUBLIC EDUCATION HAS MADE PEOPLE MORE AWARE OF THE HAZARDS IN ERIE COUNTY AND THEY ARE MORE WILLING TO TAKE SAFETY PRECAUTIONS AND REPORT INCIDENTS BEFORE THEY BECOME EMERGENCIES. I WOULD LIKE TO POINT OUT THAT THIS CONCEPT HAS NOT YET BEEN INSTITUTIONALIZED AT THE FEDERAL LEVEL. THE VARIOUS DIVISIONS IN FEMA ARE STILL SEPARATE PROGRAMS WITH SEPARATE AUTHORIZATIONS WITHOUT A GENERAL OVERSIGHT BY ANY ONE COMMITTEE IN CONGRESS.

IF ONE COMMITTEE REVIEWED ALL EMERGENCY MANAGEMENT ACTIVITIES, AS WE HAVE BEGUN TO IN ERIE COUNTY, THAT COMMITTEE COULD INVESTIGATE WAYS TO MORE EFFECTIVELY USE FEDERAL PROGRAMS TO MITIGATE EMERGENCIES AND DISASTERS. FOR EXAMPLE, MOST OF THE REIMBURSEMENTS MADE UNDER THE DISASTER RELIEF ACT ARE DUE TO FLOOD DAMAGES. DOES THE NATIONAL FLOOD INSURANCE PROGRAM HAVE A MEASUREABLE EFFECT IN REDUCING DISASTER RELIEF PAYMENTS? HOW CAN THE PRIVATE SECTOR BE ENCOURAGED TO EITHER INSTALL MORE MITIGATION MEASURES SUCH AS SPRINKLER SYSTEMS TO PREVENT FIRES OR SUSTAIN MORE OF THE RISK SUCH AS INCREASED FLOOD INSURANCE RATES FOR FLOOD PLAIN DEVELOPMENTS? SUCH AN OVERSIGHT ON THE MISSION OF FEMA COULD BE BENEFICIAL IN TERMS OF COORDINATING THE FEDERAL AGENCIES THAT ASSIST LOCALITIES AND CONSOLIDATING PROGRAMS AND REGULATIONS THAT IMPEDE THIS ASSISTANCE DUE TO THE MYRIAD OF SEPARATE FORMS AND REQUIREMENTS.

IF YOU WILL ALLOW ME THIS OPPORTUNITY I WOULD LIKE TO ALSO COMMENT ON AN AMENDMENT TO THE DISASTER RELIEF ACT OF 1974 THAT GIVES US, AT THE COUNTY LEVEL, GREAT CONCERN. S. 1216 WOULD AUTHORIZE THE ATTORNEY GENERAL TO TAKE LEGAL ACTION, "AGAINST ANY PARTY WHOSE ACTS OR OMISSIONS MAY IN ANY WAY HAVE CAUSED OR CONTRIBUTED TO THE EVENTS RESULTING IN A PRESIDENTIAL DECLARATION OF EMERGENCY OR MAJOR DISASTER." WE RESPECTFULLY REQUEST THAT THE CONDITIONS UNDER WHICH LOCAL GOVERNMENTS WOULD BE HELD LIABLE BE MADE MORE SPECIFIC. THE BROAD STATEMENT NOW CONTAINED IN THE BILL COULD TOTALLY REMOVE ALL GOOD FAITH OR DISCRETIONARY IMMUNITY FROM LOCAL ACTIONS THAT WERE INTENDED AT THE TIME TO PROTECT THE PUBLIC GOOD BUT WHICH WOULD BE CONSTRUED BY A FEW AS OPERATING AGAINST THEIR INTERESTS. WE HOPE YOU CAN GIVE A CLARIFICATION ON WHAT "ACTS OR OMISSIONS" WOULD CONTRIBUTE, "TO THE EFFECTS OF AN EMERGENCY OR MAJOR DISASTER," FOR WHICH WE WOULD BE HELD LIABLE.

I APPRECIATE THIS OPPORTUNITY TO PRESENT OUR VIEWS TO THIS COMMITTEE. THANK YOU FOR YOUR ATTENTION.



State of California

GOVERNOR'S OFFICE
SACRAMENTO 95834

EDMUND G. BROWN, JR.
GOVERNOR

(916) 445-2843

June 3, 1981

Honorable Elliott H. Levitas
Chairman
Investigations and Oversight Subcommittee of the
House Public Works and Transportation Committee
8376 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Levitas:

It is my understanding that the Investigations and Oversight Subcommittee is conducting a series of hearings on the administration of the Federal disaster assistance program. I respectfully request, therefore, that this letter, which sets forth the concerns of the State of California regarding the program, be made part of the official hearing record of the Subcommittee.

Detouring from previously held practices, the Federal Emergency Management Agency (FEMA) in early 1980 began to implement a cost sharing requirement at a level of 75 percent Federal and 25 percent state for projects deemed eligible for Federal disaster assistance by including such requirement in Federal/State Agreements. As you are no doubt aware, Federal/State Agreements are negotiated with each affected state following a Presidential major disaster declaration, a document which must be signed by the governor of the state so declared before funds will be made available for recovery operations. The governors of several states have withheld signing the documents, appealing to FEMA to conform with the Act and with past practices. However, each governor eventually relented because of the need to obtain funds to commence restoration work. I personally have signed two such agreements under letter of protest.

My concerns are not that the Federal Government should bear the total costs of disaster recovery, but that the cost sharing be equitable to the Federal Government as well as the states. Because of FEMA regulations and policy decisions, even at 100 percent Federal funds for eligible projects, state and local governments are already paying a proportionate share of disaster recovery costs. For example, in January-February 1980, eight California counties were declared by the President to be major disaster areas. The Federal/State Agreement for that disaster did not contain the 75/25 provision. Local governments identified \$165.7 million in damaged public properties

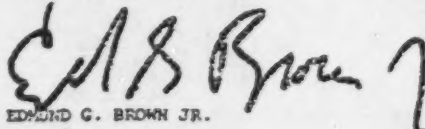
which required repair. To date (more than a year following the event), FEMA has approved \$101.7 million for repair of facilities deemed eligible under FEMA criteria. Thus, under the 100 percent formula, the state and local governments in the declared areas must pay 100 percent of the cost of the repairs not deemed eligible by FEMA, but which nevertheless must be made and which amount to 38.62 percent of the total damage repairs. Had the disaster been funded under the 75/25 cost sharing formula and under the same criteria, the state and local government would have been required to pay 54.1 percent.

For the Subcommittee's attention, I have attached a comparison of funding methods applied to the Southern California floods of 1980 (FEMA 615-DR).

I am sure you can understand the potential financial devastation that could be realized by local communities should a disaster occur where damages amount to \$30 million (not uncommon at today's construction costs) and FEMA determined eligible projects to be 61 percent of the total and then further reduced disaster assistance by imposing the cost sharing requirement of 25 percent. The end result would be a financial impact on local governments amounting to \$16.3 million. I find it difficult to believe such a requirement to be equitable or consistent with the Disaster Relief Act as intended by Congress. I suggest, therefore, that if such a requirement is to be upheld, it be applied to all costs of restoration of disaster damaged real properties, rather than those deemed eligible by FEMA, since these non-funded restorations must also be made.

I appreciate the opportunity to share my views with you. Should you have questions or require additional information, please contact Mr. Alex Cunningham, Director of the California Office of Emergency Services, at (916) 427-4201.

Sincerely,


EDWARD G. BROWN JR.
Governor

Attachment

Comparison of cost-share percentages under each of three methods of funding as based on the Southern California Floods of 1980 (FEMA 615-DR)

Baseline - Local Government Damage Assessment - \$165.7 million

	<u>Funding Levels</u>	<u>*Federal Share</u>	<u>(% of Total)</u>	<u>*Local Share</u>	<u>(% of Total)</u>
1)	100% of costs of projects <u>deemed</u> eligible by FEMA	101.7	(61.38)	64	(38.62)
2)	75%/25% Formula applied to projects <u>deemed eligible</u> by FEMA	76.2	(45.9)	89.5	(54.1)
3)	75%/25% Formula applied to <u>all</u> costs associated with restoration of damaged facilities	124.38	(75.00)	41.43	(25.00)

*Dollars in millions



STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
 SPRINGFIELD 62706

JAMES R. THOMPSON
 Governor

July 16, 1981

Mr. Louis Guiffrida
 Director
 Federal Emergency Management Agency
 5th and C Streets
 Washington, D. C. 20472

Dear Director Guiffrida:

I have signed the Federal-State Disaster Assistance Agreement for the counties of Schuyler, Carroll, Cook and Will in Illinois (FEMA-643-DR). I signed that agreement in spite of my strong opposition to the federal stipulation of a 25 percent state and local match for federal assistance. I found myself in the precarious position of either signing an agreement including the 75/25 provision or forfeiting sorely-needed help for disaster-plagued people. I urge you to reconsider this new match requirement which places an unreasonable burden on state and local governments.

In the case of a disaster, such as the one we have experienced in Illinois, it seems insensitive to demand that state and local government undergo further financial penalty when their funding of recovery efforts has taxed their financial response ability to its limit. Such a match is particularly onerous when it is considered that the Federal Emergency Management Agency does not count funds expended by state and local governments before the federal disaster designation. Thus, the formula holds a gun to the head of state and local government for funds at a time when state and local resources already are exhausted.

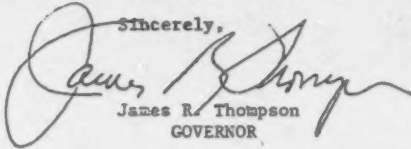
I applaud the President's efforts to control the costs of government and have fully supported his actions in that regard. However, I believe that needed federal savings can be achieved without resorting to adoption of the new match.

There appears to be no basis in the Disaster Relief Act of 1974 (PL93-288) for the reduced federal commitment in a disaster situation. Section 402 (e) of the Act states the "federal contribution for grants made under this section shall not exceed 100 per centum..." of eligible public assistance expenses. I interpret this language, just as the Emergency Management Agency and its predecessors did for the first six years after enactment of the law, to mean that the federal share shall be 100 percent.

If the Congress had meant that federal support for eligible public assistance in a disaster be less than 100 percent, it would have said so, just as it did in Section 408 (b) of the same Act, wherein federal funding for costs of the individual and family grant program is limited to 75 percent.

Therefore, I request that the Federal Emergency Management Agency review its 75/25 policy and revert to its previous practice of providing eligible public damage assistance at the pre-1980 level of 100 percent.

Sincerely,

A handwritten signature in dark ink, appearing to read "James R. Thompson", is written over the typed name and title.

James R. Thompson
GOVERNOR

JRT:drs

cc: James Medas
Special Assistant to the President
Intergovernmental Affairs

bcc: Nolan Jones
National Governors' Association

DEPARTMENT OF PUBLIC DEFENSE
OFFICE OF DISASTER SERVICES

STATE OF IOWA
HOOVER STATE OFFICE BUILDING
ROOM A-28
DES MOINES, IOWA 50319
PHONE 282-37-2001

ROBERT D. RAY
DIRECTOR

WALL, GENE, ROGER W. GILBERT
EXECUTIVE DIRECTOR

JOHN D. CRANFILL
DIRECTOR

June 11, 1981

Notan Jones
National Governor's Association
401 N. Capitol
Washington, D.C. 20001

RE: HR 3537

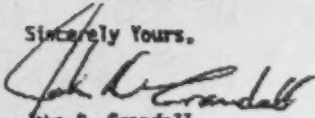
Dear Mr. Jones:

Attached is an analysis by our office of Disaster Assistance provided for Federal Disaster 590 which occurred in 1979. In reviewing this analysis, the following conclusions can be offered.

1. The 75/25 cost sharing requirement should not apply to non-FEMA disaster loan assistance which is to be repaid or to non-FEMA assistance programs that are available to the public without a disaster declaration. Including these programs in the 75% Federal limitation of assistance would typically bar the availability of the intended FEMA assistance programs from the Disaster Relief Act of 1974.
2. The state and local governmental disaster expenditures are already approximately 25% of the total disaster cost to government. The State and local governments have already certified exhaustion of resources in the application for Federal assistance. Requiring a further 75/25 cost-sharing on specific programs or projects will require State and local governments to shoulder approximately 50% of the disaster cost to government when the expressed intent is for a 75/25 match.
3. If a 75/25 cost-sharing requirement becomes mandatory by Congressional action, then state and local disaster-related expenditures not federally reimbursed and are accrued during the response and recovery stages of the disaster should be credited towards the required 25% share as applied to any disaster program or project.

4. Requiring a 25% state and local governmental share and allowing state and local disaster related expenses from funds which have been budgeted for non-disaster activities will require an administrative burden on all levels of government and unnecessary delay in recovery activities at a time when there is an emphasis for less red tape and regulation and more effective response by government in its functions.
5. The proposed amendment requiring a 75/25 cost-sharing will be burdensome and time consuming and will probably not affectively change the present ratio of disaster expenditures as intended. Recovery will be hampered in a manner inconsistent with the intent of the Disaster Relief Act of 1974.

Sincerely Yours,



John D. Crandall
Director

JDC/fh

enclosure

DEPARTMENT OF PUBLIC DEFENSE
OFFICE OF DISASTER SERVICES
STATE OF IOWA

HOOVER STATE OFFICE BUILDING
ROOM A-20
DES MOINES, IOWA 50315
PHONE: (515) 281-3021

ROBERT D. RAY
GOVERNOR

MAJ. GEN. ROGER W. GILBERT
EXECUTIVE DIRECTOR

JOHN D. CRANDALL
DIRECTOR

MEMORANDUM

DATE: June 11, 1987

TO: John D. Crandall - Director

FROM: Dick Bartel - Response and Recovery Officer

SUBJECT: ANALYSIS: Proposed amendment HR3537 to the Disaster Relief Act of 1974

The HR3537 bill includes a proposed insertion to Section 301 in the procedures sub-section of the Disaster Assistance Administration section which reads as follows:

"The State and local government obligations and expenditures to alleviate damage, loss, hardship, and suffering from such disaster shall be 25 per centum of the total of all Federal, State, and local government funds obligated and expended for such purpose unless the President, based upon the certification required by the preceding sentence, determines that a lesser percentage would be a reasonable expenditure of the funds of the State and local governments for such purpose."

Some clarification may be necessary to determine if the above proposed amendment applies only to Federal assistance administered through FEMA. Listed below are Federal assistance programs which are not administered by FEMA and may or may not be grant funding.

PROGRAM	COMMENT
SBA Disaster Loans	These loans are administered directly to disaster victims and are to be repaid.
FHA Disaster Loans	The loans are administered directly to disaster victims and are to be repaid.
Unemployment Assistance	Job placement and unemployment assistance is administered through the Department of Labor. Most of these benefits are available without a disaster declaration.
Emergency Food Stamps	This assistance is administered through the Department of Agriculture. This benefit is available without a disaster declaration.

The above examples of federal disaster assistance probably should not fall within the intent of the HR 3537 amendment to Section 301 of the Disaster Relief Act of 1974. It appears logical that the proposed limitation to federal disaster assistance should apply only to the assistance administered by FEMA.

Listed below is a summary of federal and state disaster assistance administered through FEMA for the Presidential Declaration, Federal Disaster 590, which occurred in Iowa on June 28, 1979:

<u>DISASTER EXPENDITURES</u>	<u>FEDERAL COST</u>	<u>STATE COST</u>
Individual/Family Grants	\$ 120,090	\$ 40,031
Temporary Housing	\$ 472,563	
Public Facility Assistance	\$ 570,255	
Iowa Dept. of Transportation		\$ 19,000
Iowa Dept. of Public Safety		\$ 27,300
Iowa Insurance Department		\$ 10,500
Iowa Commission on Aging		\$ 6,500
Iowa Department of Health		\$ 470
Iowa Department of Environmental Quality		\$ 3,645
Iowa Office of Disaster Services		\$ 10,000
Job Service of Iowa		\$ 16,000
Iowa National Guard		\$ 46,700
Iowa Dept. Social Services		\$ 61,500
City of Manson, Iowa		\$ 63,000
City of Algona, Iowa		\$ 65,000
TOTALS	\$1,162,908	\$369,646

The above State expenditures were approximately 24% of the total disaster expenditures for this Presidential Declaration without concern for a 75/25 cost-sharing ratio. Fixing a cost-sharing ratio of federal/state and local will add an administrative burden in documentation by the state and local governments, and may delay consideration of needed assistance for recovery activities. Federal Disaster 590 was a small-scale disaster but should be somewhat representative.

The inclusion of non-FEMA disaster assistance in the 75/25 cost-sharing ratio would have drastically reduced federal assistance to the State and local governments for Federal Disaster 590. Listed below is the disaster assistance provided by non-FEMA programs:

<u>PROGRAM</u>	<u>ASSISTANCE</u>
SBA Business Loans	\$3,484,500
SBA Home Loans	\$3,381,600
FEMA Disaster Loans	\$ 159,400
Unemployment Assistance	\$ 10,716
Emergency Food Stamps	\$ 59,389
TOTAL	\$7,095,605

The total disaster cost would amount to \$8,628,159, for which State and local government assistance would be approximately 4%. As non-FEMA disaster assistance provided directly to disaster victims amounts to 82% of the total cost, there could be no other federal funds provided for individual and family grants, temporary housing, or public facility assistance if the proposed 75/25 cost-sharing included non-FEMA disaster assistance programs.

Certainly, any 25% cost-sharing requirement of the state should include a broad allowance for utilization of state and local government manpower, equipment, and supply resources which cannot be utilized towards the budgeted intended purpose as credit towards the matching requirement. The total State and local resource allocation will be difficult to assess without extensive documentation and administrative efforts, however.



DAVID C. TREEN
GOVERNOR

State of Louisiana
EXECUTIVE DEPARTMENT
Baton Rouge

May 12, 1981

Congressman Elliott H. Levitas
Sub Committee on Investigations
and Oversight
The Committee on Public Works
and Transportation
U. S. House of Representatives
Washington, D.C. 20515

Dear Congressman Levitas:

The State of Louisiana joins the National Emergency Management Association, in opposing, the proposed amendment to the Disaster Relief Act of 1974, Public Law 93-288, that would add a new Section 420. This new section limits the Federal participation to 75 percent of eligible cost for public assistance.

While the State generally concurs with the concept of state cost sharing, the present law already adequately provides this. Before a state can receive federal assistance, the Governor must certify (among other terms):

- 1) that the disaster is of such severity and magnitude that effective response is beyond the capabilities of state and affected local governments;
- 2) that appropriate actions have been taken under state law;
- 3) the extent and nature of the state resources which have been or will be expended to alleviate the disaster; and
- 4) that state and local government expenditures constitute a reasonable amount of funds for alleviating the disaster (42 USC 5141 (b)).

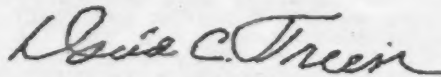
These provisions adequately insure that the state will fully utilize its capabilities to alleviate the disaster.

In any event, an arbitrary 75-25 cost sharing will not necessarily reflect a proper federal-state relationship. It does not take into consideration the severity of the disaster, or the fiscal ability of the impacted governmental unit to respond. What would be a reasonable amount of local expenditures for one parish or municipality may not be for another. The present law allows the flexibility to deal with these types of situations. The proposed amendment would remove this flexibility.

In proposing cost sharing, the Federal Emergency Management Agency (FEMA) must realistically consider the state and local costs that have not previously been reimbursed by FEMA or considered as commitment of resources to the disaster, i.e. administrative costs including FEMA - mandated audits by state auditors; acquisition of land, easements and right-of-ways; payroll additives, such as retirement, social security, insurance; stock items and supplies; emergency communications; Damage Survey Reports costs below FEMA set figures and mission assignment personnel. In addition, FEMA has expressed an intent to allow only those costs incurred on or after the date a ~~Presidential Declaration is approved~~. This policy is an inappropriate one, since all disaster related costs attributed to an event should be considered in determining eligibility and commitment. This consideration becomes crucial when the 75-25 amendment is proposed.

I would appreciate your assistance in stopping the proposed amendment to Public Law 93-288.

Sincerely,



David C. Treen

DCT/lmh

SAME LETTER SENT TO THE CONGRESSIONAL DELEGATION



JOSEPH E. BRENNAN
GOVERNOR

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE
0-3363

June 12, 1981

The Honorable David Emery
2437 Rayburn House Office Building
Washington, D.C. 20515

Dear Dave:

I understand that the Subcommittee on Water Resources Investigations (Chaired by New Jersey Congressman Roe) of the House Committee on Public Works and Transportation (Chaired by New Jersey Congressman Howard) as approved an amendment to P.L. 93-288 which would change Section 301 of the Disaster Relief Act Amendments of 1974 to require 75-25 federal-state cost sharing in all federal, state and local disaster costs.

In general, I support the concept that state and local units of government should assume their fair share of the public response to a natural disaster. However, the proposed amendment does cause us some concerns, as set forth in the following questions:

1. Does the 25% state-local share include expenditures made prior to a Presidential Declaration, as well as emergency relief and in-kind services? If pre-declaration expenditures, emergency relief, and in-kind services cannot be credited to the state's share, our ability to respond promptly and completely to a natural disaster may be seriously restricted. I would support clarification to this bill to insure that pre-declaration expenditures are included in calculating the State's share.
2. Does the federal share include SBA and other federal loans and flood insurance payments to individuals? If not, what costs would be included in calculating the 75-25 formula? I would support the concept that the state's share should be limited to damages to public facilities such as parks, public piers, government offices, school and roads.
3. Does state legislation authorizing the 25% state-local share have to be in place prior to a Presidential Disaster Declaration?
4. Can states pass on the entire 25% share to municipalities and individuals? This question is important because I feel the state's 25% share should be limited to state facilities such as parks, state highways and state institutions, and that counties and municipalities should be responsible for their respective structures. I do not support the concept of state expenditures for damage to private property.

5. Who will be responsible for calculating the costs to which the 75-25 formula will apply? The question is important if the agency which calculates expenditures also has the authority to determine eligible costs.

These policy questions should be resolved by Congress prior to the passage of this amendment, if they have not been resolved already, to avoid federal agency interpretations which may result in costs and inconveniences to Maine that were not intended by the authors of this legislation. Finally, I feel that if the 75-25 provision is enacted, it should not go into effect until the next biennium, to give states a reasonable opportunity to build the necessary response capability into their budgets.

I will appreciate your help in addressing these issues to make certain that state government can provide swift and effective emergency relief.

Sincerely,


JOSEPH E. BRENNAN
Governor

JEB/sc

CC: Charles Sharpe, Director, Civil Emergency Preparedness
Richard Barringer, Director, State Planning Office
Donald Larrabee, Director, Maine/Washington Office



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

HUGH L. CAREY
Governor

June 5, 1981

Dear Governor List:

I have been deeply concerned with the movement to reduce the Federal disaster assistance authorized under the Disaster Relief Act of 1974, PL 93-288, by establishing a Federal-State-local cost sharing arrangement with a specific maximum on Federal participation. While I accept the principle in the Act that Federal disaster assistance is intended to supplement State and local disaster relief efforts, I believe that establishing such a ceiling on Federal participation, whether by statute, regulation, or administrative determination, goes beyond the intent of this principle.

Of particular concern is H.R. 3537, which goes beyond previous proposals, and would amend the Act to provide a 75 percent maximum on all Federal disaster assistance available thereunder. The State and local government, despite PL 93-288, already bear the primary burden of disaster costs, including those for which Federal assistance is not provided. The proposed amendment would add to this burden.

I wish to add my voice to those of my associates in other States who oppose the cost sharing proposals. I urge that the Act not be amended in this regard.

Sincerely,

Honorable Robert List ✓
Chairman, Committee on Criminal
Justice and Public Protection
National Governors' Association
State Capitol
Carson City, Nevada 89710

RECEIVED MAY 22 1981

BRUCE KING
GOVERNOR

STATE OF NEW MEXICO

OFFICE OF THE GOVERNOR

SANTA FE

87503

May 18, 1981

Honorable Pete Domenici
United States Senator
3217 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Pete:

I am deeply concerned with the proposal to add a new section 420 to the current Public Law 93-288, Disaster Relief Act of 1974. The proposed new section 420, being introduced within H.R. 2958, introduces language that prohibits the federal government from providing assistance in excess of 75 percent of the otherwise eligible costs for public assistance under a Presidential Disaster Declaration.

It is my opinion that when a request for disaster assistance is made of the President, the findings of need to relieve human suffering, loss of life, restore essential public facilities and alleviate the severity of adverse effects to individuals and families is given considerable analysis before the President instructs the federal government agencies to provide support assistance to the state and local governments involved. A limiting 75%/25% clause is tantamount to saying that after the state and local government have done all they can within their reasonable means and found it necessary to call for federal assistance, the President may not consider the individual disaster situation circumstances and local conditions to meet the need as found. I believe a proposed section 420 flies in the face of the intent of disaster relief and the purposes for which the legislation was intended, including the presidential authority.

In our state I have always made a significant cost sharing participation from the State Disaster Fund and each political jurisdiction has been asked to cost share. The local cost sharing has heavily considered the financial capabilities of counties and municipalities. As you know, these vary as do their other public service obligations.

Like all disasters, no two situations are exactly the same and conditions and capabilities frequently change. To introduce a "formula grant system" into the nation's Disaster Relief Act places it into the same category as the multiplicity of categorical grants which frustrate so many states and local governments.

When a major disaster occurs, the national interest itself is at stake. Already the infrastructural base of our communities is suffering. I believe that there are already sufficient regulations governing eligibilities to safeguard the federal government from misapplication of the intent of Public Law 93-288, particularly as it applies to public assistance and a cost-sharing philosophy. A formula structure, be it 75%/25% or any other formula as part of law governing the President, denigrates the national public concern that, in severe situations, the nation should rally to provide the immediate essential needs of neighboring state citizens. This is where the true cost-sharing exists, federal tax revenues applied responsibly across the nation. Percentages do not assure responsible satisfaction of needs or equitable management practices.

During the last two major floods in New Mexico we received public assistance under Public Law 93-288. A comparison of costs will help explain the points made above. It especially demonstrates how each situation or condition of the disaster can vary quite dramatically.

Example I.

FDA 571 DR: declared January 23, 1979.

Counties and Municipalities Involved: Catron, Grant, Hidalgo, Lincoln, Sierra and the Village of Ruidoso and Ruidoso Downs.

Total P.L. 93-288 (public assistance)	\$2,690,340
Total cost to state & local governments, ...	664,880
Cost Sharing Percentages: 75% Federal/25% State	

Example II. (Estimated)

FDA 589 DR: declared June 8, 1979

Counties: Taos, Rio Arriba, Santa Fe, Mora, San Miguel, Lincoln

Municipalities: City of Santa Fe, Village of Taos, Red River, Questa, Taos Pueblo, Espanola

Total P.L. 93-288 (public assistance)	\$2,519,559
Total cost to state & local governments, ...	903,407
Cost Sharing Percentages: 64% Federal/36% State	

In both examples we had long distances to travel. In Example II we had more individual applicants and management perhaps was a little more difficult. In both examples we have included administrative costs which are not eligible reimbursements, but costs nonetheless. In Example II the percentage cost figures applied were 70% federal, 15% state and 15% counties and municipalities. Acequias or Ditch Commissions figures were 80% federal, 15% state and 5% to acequias. If the proposed 75%/25% formula had been applied, the actual total non-federal cost (state/local), discounting ineligible reimbursement costs such as management and administration, including audit costs, the state cost would have been much higher than the very close estimated 36%. It would have come closer to 42%.

Other states have had these same experiences and that is why at a recent National Emergency Management Association (NEMA) meeting held in Phoenix, Arizona, they passed a resounding unanimous resolution against the proposed 75%/25% formula. Enclosed is a copy of that resolution. They recognize the difficulty in estimating final costs, but when the tally comes in states often pay a premium for federal aid.

I encourage you with the greatest urgency not to support a fixed percentage limitation as proposed by H.R. 2958 and to carefully watch regulations that have the effect of law which may circumvent congressional intent.

Sincerely,

BRUCE KING
Governor

Enclosure

cc: Robert T. Stafford, Chairman
Senate Environment and Public Works Committee
Frank E. Murkowski, Chairman
Subcommittees on Regional and Community Development
James J. Howard, Chairman
House Public Works and Transportation Committee
bcc: General Richard Reid
Al Lobato

This letter has been sent to each member of the New Mexico Congressional Delegation.



COMMONWEALTH of VIRGINIA

John N. Dalton
Governor

Office of the Governor
Richmond 23219

June 18, 1981

The Honorable John Paul Hammerschmidt
Ranking Republican
Subcommittee on Water Resources
Committee on Public Works and Transportation
U. S. House of Representatives
Washington, D. C. 20515

Dear Congressman Hammerschmidt:

This is to express my concern about that portion of H.R. 3537 which relates to the state and local government share of major disaster costs. I believe this proposed amendment would, if adopted in its present form, seriously delay if not completely negate the state and local governments' ability to provide an adequate and timely response to or recovery from a major disaster situation. The bases of my concern are that:

1. H.R. 3537 takes no account of catastrophic or multiple disaster situations, nor does it give any consideration to state and local government funding limitations or their ability to respond to a fixed percentage of total disaster costs.
2. The proposal to mandate a state and local government share based on a percentage of the total of all Federal, state, and local government costs will be extremely costly and time consuming to administer. It will require state participation in the administration of several additional Federal assistance programs, more extensive recordkeeping and audit procedures, delay final audit and payment of disaster claims, and will not appreciably reduce total Federal costs if, as implied, expenditures which are not currently eligible for reimbursement are under the amendment eligible for 75 percent Federal reimbursement.
3. H.R. 3537 lacks clarity and provides unbridled flexibility to the Federal administering agency in prescribing which programs are affected and what costs are eligible for reimbursement. Under the current law, the states and local governments are already paying a substantial part of the total costs. These include National Guard and other state and local government agency costs prior to and following the declaration, administrative and other costs not eligible for reimbursement under the current Federal rules, site preparation for temporary housing, and 25 percent of the costs of the Individual and Family Grant Program.

While I agree that the states and the local governments should bear a reasonable share of these costs, I do not believe that the states or the local governments can cope with a formula that is based on an open-ended fixed percentage of total costs with no upper limit. I believe it is essential that an appropriate CAP be established for the state and local government share. Factors which should be considered in determining this CAP include:

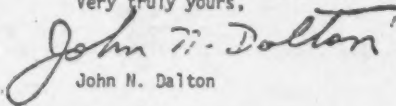
- A percentage of the state budget
- The assessed value of real estate in the affected jurisdiction
- Current indebtedness
- Disaster expenditures during the preceding twelve months

I understand that H.R. 3537 has been reported to the House Floor for consideration. I hope you will be able to have it referred back to Committee for further study and revision based on input from the National Governors' Association, the Federal Emergency Management Agency, and other interested parties.

Your assistance in this matter will be greatly appreciated.

With all good wishes, I am

Very truly yours,



John N. Dalton

JND/ESK/nsc



State of Washington

JOHN SPELLMAN, Governor

May 27, 1981

OFFICE OF THE GOVERNOR

The Honorable Henry Jackson
United States Senator
Room 137 Russell Bldg.
Washington, DC 20510

Dear Senator Jackson:

I understand the House of Representatives will soon consider changes and additions to the Disaster Relief Act of 1974 (PL 93-288). A new Section 420, proposed in HR 2958, would limit federal participation in eligible public assistance activities to 75 percent.

I am unalterably opposed to the limitation contained in Section 420. Section 301 (b) of the Act states that a Governor shall commit a reasonable amount of state and local government funds for alleviating disaster damage and losses. The arbitrary 25 percent state and local requirement proposed under Section 420 would impose an unreasonable requirement and cause severe hardship to states and local governments.

Here is a current estimate of response and recovery costs for the Mt. St. Helens disaster in Washington.

FEMA Ineligible Costs	\$ 9,000,000
FEMA Eligible Costs	35,600,000
	<u>\$44,600,000</u>

In the present case, because of FEMA's strict 75-25 interpretation of the commitment provisions of PL 93-288, state and local government applicants in Washington receive only 75 percent of eligible costs (\$26,700,000), and are left with a balance of \$17,900,000 to pay ((\$9,000,000 + \$8,900,000 (25% of \$35,600,000))). In other words, FEMA actually pays only about 60 percent of eligible and ineligible costs, while the state and local governments pay 40 percent.

The following examples clearly illustrate the severe impact the 75-25 requirement is having on some of our local governments:

<u>APPLICANT</u>	<u>NON-REIMBURSED COSTS*</u>	<u>PERCENTAGE OF ANNUAL BUDGET</u>
Ritzville	\$ 179,408	28
Warden	64,355	25
Moses Lake	908,000	26
Sprague	58,000	21
Adams County	1,737,407	48
Grant County	1,589,189	24
Lincoln County	903,987	15
Whitman County	1,150,000	14

* Includes 25 percent share of FEMA eligible costs and ineligible costs.

The state legislature appropriated \$4.2 million to assist the most severely impacted of over 150 affected public entities.

Our experience with the Mt. St. Helens disaster clearly illustrates how this unreasonable and ill-conceived policy impacts on states and local governments. The amount expended under FEMA ineligible costs (\$9,000,000) represents a significant response. However that amount does not include a number of associated costs such as preparation of a hazard mitigation plan, conducting audits and long-range recovery measures. The Washington legislature recently appropriated \$1.9 million to assist counties with law enforcement access control to Mt. St. Helens in 1981 and 1982.

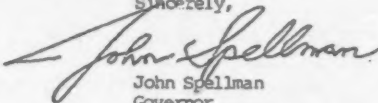
FEMA compares the public disaster assistance funding to other federal cost-sharing programs. There are some fundamental errors in this comparison. Other cost-sharing programs generally involve optional programs and budgetable expenses such as long-term development plans. It should be obvious that FEMA disaster assistance are not subject to budget development plans, or options. Costs involved under PL 93-28 occur suddenly and require immediate action permitting only limited options.

I agree with the principle that federal disaster funding should be supplementary to what states and local governments expend to help themselves. The question is what constitutes a reasonable amount of commitment? On some types of disasters and under certain circumstances, 25 percent might be appropriate but a catastrophic disaster could impose an impossible financial impact because there would be no upper limit to the amount of commitment required.

In summary, I believe it would be a mistake to incorporate Section 420 into the Act. FEMA presently has the flexibility and authority to require a reasonable commitment by states and local governments. Approximately 200 major disasters were declared between 1974 and 1980 under the present Act. If commitment inconsistencies have occurred, the fault must be assumed by FEMA. Under the 75-25 cost-sharing requirement flexibility would be lost and an unfair and unreasonable burden would be forced upon states and local governments on future disasters.

Your support in preventing the controversial new Section 420 from becoming law will be appreciated.

Sincerely,


John Spellman
Governor



LEE SHERMAN DREYFUS

STATE OF WISCONSIN
OFFICE OF THE GOVERNORSTATE CAPITOL
MADISON, 53702Telephone Number
(608) 266-1212TESTIMONY OF
GOVERNOR LEE SHERMAN DREYFUS-WISCONSINTO HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE
MAY 13, 1981

Mr. Chairman and members of the committee: I am most supportive of your examination of our country's capability to assist our citizens in a disaster; whether it be natural or man-made.

There are two issues which I would like to bring to your attention today concerning disaster funding when Presidential Major Disaster Declarations are declared.

On July 15, 1980, four western Wisconsin counties were struck by at least four tornadoes and associated high winds. This storm system continued on and struck, also with great damage, suburbs of Detroit, Michigan. I happened to be there at the time and can attest to that damage. The Detroit area was granted a Presidential Emergency Disaster Declaration. I will return to the importance of the Detroit situation. The magnitude of the damage in Wisconsin was estimated at \$159 million in private citizen and public facilities damage. Wisconsin applied for and was granted a Presidential Major Disaster Declaration. We were told administratively by the Federal Emergency Management Agency (FEMA) that we must sign the agreement for federal funding commitment with a stipulation which would provide only 75% of the eligible public assistance cost category. This differed from long term, written eligible and ineligible

federal public assistance reimbursement policy. This was a surprising and unexpected funding situation to the counties, cities, townships and state governments. Most of them did not have the capability to assume another 25% of the eligible public assistance reimbursement cost category, and those costs deemed as local and state commitment (previous to a declaration request and certifiable to the President as a state and local contribution) in addition to costs associated with the FEMA ineligible public assistance cost category. This is a severe hardship and unwarranted practice based on previous Public Law 93-288 applications in disaster situations in Wisconsin.

Section 301 (b) of 93-288 states the Governor of the affected state may request of the President of the United States a disaster declaration, "based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take the appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant portion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster. Based upon such Governor's request, the President may declare that a major disaster exists, or that an emergency exists". In this case our prior commitment expenditures exceeded \$802,000 based on an estimated \$6.5 million in public assistance damages. We knew we would still have

to pay for those items in the ineligible category. Then we learned of the additional 25% subtraction from the eligible amount. The raised citizen expectations and associated fanfare that come with these federal declarations do not really show the local and state taxpayers the costs they have to bear and seldom indicate that most federal aid is often in the form of loans not grants.

Therefore, three premises are evident; 1) a serious commitment of local and state resources must be made prior to submission of a request, 2) the commitment must be significant in relationship to the available resources of the local and State government and the obvious third premise that when the President declares such a disaster the full implementation of the law is available for use under the current guidelines. The current guidelines in section 402 (e) state that grants for public assistance are for "the net cost of repairing, restoring, reconstructing or replacing any such facility...". Net cost does not mean 75% but it means to repair or replace in full. Further, while other sections of the law speak of supplementary assistance this section speaks of "not to exceed 100 per centum," therefore, also by implication saying 100 per cent assistance and is an upper limit which assures fairness by local and State governments. This is consistent with section 402 (c) which discusses, "grants based on the net costs of restoring such facilities...". And section 402 (f) which discusses a 90 per cent federal reimbursement where local and State governments determine that to reconstruct the facility as it was is not in the public interest. There is no mention of another percentage.

The law is consistent within itself and does not leave latitude for the operative agency's administrative decision. Not only is the law consistent within itself, it is historically consistent. Two indications of

this are 1) a letter from Senator Jennings Randolph of West Virginia, to FEMA officials, when upon learning of their 75-25% implementation action stated "If that report is correct, the action you contemplate would represent a significant departure from past precedent, procedure and practice in emergency situations of this nature and from what I know to have been the intent of Congress in adoption of Public Law 93-288, the Disaster Relief Act of 1974."

A second historical perspective you should be aware of is Public Law 91-606 which was the Disaster Relief Act of 1970 (passed on December 31, 1970). In section 203 (8) it stated; "making repairs to, restoring to service, or replacing public facilities (including street, road and highway facilities) of State and local governments damaged or destroyed by a major disaster, except that the Federal contributions therefore shall not exceed the net cost of restoring each such facility on the basis of the design of such facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards". Public Law 93-288 clarified this even further, in our judgment, in Section 402 (e) (passed on May 22, 1974): "The Federal contribution for grants made under this section shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards". Prior to the Disaster Relief Law of 1970, the assistance used to be at about a 50% level for public or governmental facilities. It seems strange to us that Congress would have passed the Disaster Relief Act of 1970, which provides for the net costs of restoring public facilities, and then follow it up with Public Law 93-288

on May 22, 1974, which reinforced it with the policy of payments not to exceed 100%, unless they intended 100% payments for public facility damage. If not, Congress would not have passed either of those two laws.

This is a classic case of a federal agency interpreting the law. Our Congressmen have to determine if they will allow a federal agency to block the intent of Congress which by the law and our experience is very clear to us.

In the 1970's, except for technical exceptions, the Wisconsin experience was one of full reimbursement of eligible public assistance damages in the seven Presidential Major Disaster Declarations that were granted. And most assuredly we were never asked to sign a 75-25% cost sharing agreement. In the July, 1980, declaration FEMA would not release any of the necessary public assistance funds up to the 75% amount until I signed the agreement and in essence held the eligible funds as granted by the President, myself, and the four county board chairmen, hostage. Under duress of the need for the funds and with a letter of protest to the President near the time of the change of administrations, I signed the cost split. Not only did I protest but so have the Governors of the other nine states forced into the agreement. Examples of other letters of protest from Governor Rockefeller of West Virginia and Governor Rhodes of Ohio are in the attachments. These are not just Wisconsin concerns and protests and the 100%, net cost experience of reimbursement is not just a Wisconsin experience but one shared by all the states.

The National Governors' Association has also protested this arbitrary agency administrative decision as has the National Emergency Management Association, the association of the 50 state emergency service directors. These two groups know the burden placed upon local taxpayers in disaster recovery.

Lest the members of Congress think the local and state governments are wanting a handout, I would refer the members to testimony given before the Joint Committee On Defense Production on June 30, 1976, by the State of Wisconsin. It stated that in a Presidentially declared disaster when we received help, it was for far less than 50% of the total federal disaster estimate. One of the reasons for this is because there is a pre-disaster declaration commitment and the ineligible public assistance reimbursement category. Many, if not all, of the states can easily show this situation to be the case. State and local governments already bear a major role in a disaster and now FEMA wants to eliminate 25% of the eligible public assistance category besides. It is the local and state government who are operatives in disasters. The federal government is the planner and the grantor, proper roles which should continue.

Prior to the July 15, 1980, storms we were never officially notified of this 75/25% issue. On December 31, 1980, the first letter of official notification from the FEMA Regional Director was signed notifying the state of this administrative interpretation of policy (copy attached). Before I could respond, he had left office along with the change of FEMA administration. This midnight mail scheme speaks to the serious administrative shortfall in the agency and is a blatant example of how FEMA has dealt with the states on this policy issue.

The shortfall which this produced for the nine affected states is approximately \$30 million. This is not large in terms of the federal budget, but you know the important role the federal disaster fund serves to the county board members and township boards back home.

Last fall a House-Senate conference committee deleted the 75-25% language in a proposed change to the public law and asked that FEMA's proposal be studied further because the impact of the agency's change seemed

to be detrimental to local and state governments and would cause a severe hardship on stricken municipalities and their taxpayers. That insight is correct. The wisdom of the conference committee has been substantiated.

FEMA was, and is, in violation of Public Law 93-288. I ask that you direct them to implement full payment to the four counties in Wisconsin and the other affected states.

The second issue I would like you to consider is a new FEMA attempt to pass this same policy. The current associated funding authorization for the President's disaster fund is a reasonable amount barring any improper uses as we saw previously such as for Cuban immigration. This is what causes problems, the improper use of the fund for political decisions rather than disasters. Wisconsin, by virtue of the use of Fort McCoy for the Cubans, also bore the brunt of this policy much to the chagrin of our citizens. We lost both times last year in disaster funding.

In a classic case of federal finger pointing, FEMA has said it is introducing 75-25% this year at the request of the Office of Management and Budget (OMB). OMB says it is only supporting FEMA's effort. Who is pointing the finger at whom, and isn't it at the expense of local citizens?

My second concern then is to have you delete the 75-25% proposal from HR 2958 or its successors which are being submitted this year. Leave 93-288 as is or direct FEMA to allow the states to shape the change of policy if that must be. We are a nation with a government, not the other way around.

Why is FEMA trying to legitimize its administrative decision in law when it claims it already has the authority to do it administratively? Could it be that FEMA is currently breaking the law? Yes, I believe that

to be the case and the agency should be directed to stop this violation. Local and state governments already pay a majority of disaster related costs in a Presidential Major Disaster Declaration. A declaration can best be described as a "National Disaster Insurance Policy" to keep local government from going bankrupt. This policy must be maintained.

This new 75/25% proposal does not even indicate a monetary upper limit in a severe disaster. For example, if an earthquake struck populated portions of California as we know it someday will, damages could reach into the hundreds of millions. That kind of public assistance damage commitment alone could financially wipe out a state. Twenty-eight million dollars in damage is easily reachable in Los Angeles or San Francisco or in Milwaukee for that matter. Yet just 1% of the California state budget is \$28 million. This disaster situation has the same order of magnitude problem for all respective state budgets and promotes the inability of taxpayers to handle the burden. The law, as it is currently written and was formerly implemented, is sound.

In line with the theory of a "national disaster insurance policy" Wisconsin's taxpayers are finding that for every federal tax dollar sent to Washington only approximately 75¢ is being spent federally in our state while other states receive much more than a dollar for dollar ratio in return. Wisconsin and other states have never complained about this situation because when we really needed the help, we at least were granted something. The flexibility inherent in the current law also recognizes that there are important regional differences from one end of the country to the other. Wisconsin does not have volcanoes but it does have tornadoes and does receive the precipitation impact of hurricanes.

At the beginning of my remarks I mentioned the storm in Detroit. The "deal" struck there was not 75-25% but 89-11%, federal-state. Arizona had a sliding disaster scale of 90-10%, 80-20%, and 75-25%, and the examples go on and there are even a few 100% federal share examples mixed in as the law provides for. "Deals" were struck by former FEMA administrators to gradually implement the policy and not have anyone scream too loud. California Congressmen screamed and FEMA relented by giving 100% federal disaster declarations in January and February 1980.

Pay what the law fairly provides for and delete the proposed 75-25% language.

I would be pleased to provide any additional information or material that the committee might find helpful either at this time or at a later date. I know that I am not speaking alone when I say that we are looking to this committee with hope for the future.

Thank you very much.

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE UNITED STATES OF AMERICA

**CHURCH WORLD SERVICE**

475 RIVERSIDE DRIVE, NEW YORK, NY 10027

cable DOMINICUS • RCA Telex 224579 • TWX 710-581-5981

Paul F. McCleary, Executive Director (212) 870-2257

DOMESTIC DISASTER PROGRAM

(201) 435-8464

W. D. Dibrell, Coordinator

P.O. Box 188, New Windsor, MD 21776

July 17, 1981

The Honorable Frank H. Murkowski
 Chairman: Sub-Committee for Regional and
 Community Development of the
 Senate Environmental and Public
 Works Committee
 U.S. Senate
 Washington, D. C. 20510

Subject: Disaster Legislation Public Law 93-286

Dear Senator Murkowski:

For your information, the Church World Service constituency includes 30 mainline denominations and related agencies, with a special sub-committee delegated responsibility for domestic disasters, consisting of the following denominations:

American Baptist Churches
 Christian Church (Disciples)
 Church Women United
 Later Day Saints (Reorganized)
 Mennonite Disaster Service
 Presbyterian Church U.S.
 Seventh-Day Adventists
 United Church of Christ
 United Presbyterian Church USA

Church of the Brethren
 Christian Reformed World Relief Com.
 The Episcopal Church
 Lutheran Council in the USA
 National Catholic Disaster Relief Com.
 Reformed Church of America
 Southern Baptist Convention
 United Methodist Church

Most members of this group are also members of the National Voluntary Organizations Active in Disaster, which includes American Red Cross, Salvation Army, Volunteers of America, Goodwill Industries, National Conference of Catholic Charities, Boy Scouts of America, B'nai B'rith, NAACP, Amateur Radio Relay League, and REACT. The total membership of all our organizations is in excess of 174,000,000.

For years the denominations represented on our Church World Service Domestic Disaster Committee have been active in disasters both on the local level during emergencies and through Church World Service in assisting local religious leaders to cope with emergency and long-term assistance.

The close working relationship with the American Red Cross and Federal Emergency Management Agency has resulted in less duplication, faster service to persons affected by disaster and support between the private sector and the government sector.

We worked closely with the special task force that created FEMA for the purpose of improving Federal emergency management and assistance through the consolidation of several existing agencies and functions into a new independent agency. We supported this plan because we felt it would improve services to victims of natural disasters.

Prior to FEMA, Federal Disaster Assistance Administration's capable staff had gained credibility and improved the delivery system to the point that disaster operations were smooth and efficient. Their leaders managed to speed up the process which not only speeded up assistance to people but reduced cost of staff time and maintenance.

Developing the single application form with SBA, Housing and the State Grant Program was a real necessary step in the speedup process.

Since the Appalachian floods in 1977, FDAA has done a remarkable job of rendering services. The career staff and reserves are dedicated with real empathy for people. They are the nation's best trained in natural disasters.

The reason for this letter is to let you know that we now have some real concerns. Both the government sector and private sector have come so far as a team in helping people that we do not want to see that progress fall by the wayside because of other FEMA priorities.

We have studied the testimony to be presented by Mr. William J. Sande of the American National Red Cross at your 2:00 p.m. Hearing on Tuesday, July 21st. We fully support the Red Cross position, which outlines many of the same concerns we have. Our concerns are:

1. That it appears that Disaster Response and Recovery in the "new" structure has been given less priority than previously (Emergency Management newsletter June 25, 1981).

The key to success in the past has been the role of the Federal Coordinating Officer, who coordinated all Federal agencies with related disaster responsibilities as mandated by Public Law 93-288 and confirmed by the Reorganizational Plan number 3 (Report number 95-1141, page 11).

We strongly suggest that the Federal Coordinating Officer, appointed by the President, continue to be the person to coordinate all Federal agencies inside and outside of FEMA in order to restrict those agencies that are necessary to a disaster operation from operating independently.

There are times when speed is essential. We think that it would be advantageous to authorize FEMA (Sec. 303, PL 93-288) to appoint a person as the Federal Coordinating Officer with or without a Governor's request.

PL 93-288 has been tested and proven successful in this respect, as had the career staff that has performed this function.

2. We have found a need to restore the mini-repair program (Sec. 404, PL 93-288). There are many cases where this program would have provided shelter to people without the need for free housing in trailers or temporary housing. The State Grant Program does not move fast enough to meet these emergency needs.
3. We had input in the single application form on the three tests made in Arkansas, Wyoming, and Texas. This program speeds up the process and is a blessing to the elderly and persons incapable of handling the mass of paper work. Under the regular system, SBA and State Grant Program were slow because they operated as an independent unit.
We urge the three agencies, SBA, Housing, and State Grant, to work with FEMA DR&R to perfect this approach to faster and better service.
4. Another concern is the matter of clarification of the term loss. Do we mean total loss or item by item? We feel that needs should be met but persons affected by disaster should not be better off as a result of such assistance. The lack of clarification is causing duplication and slows down the delivery system.
5. We support increasing the reimbursement to states from the present 3% for administrative cost to an amount necessary to supplement existing state staff to speed up the State Grant Program (Sec. 408).

Most states have only the number of staff needed to do business as usual and cannot employ enough extra staff at 3% to do the additional job.

These are our concerns. We have faith in the career staff who have worked hard to render service to those affected by disaster. We do not want to see their work be in vain by being swallowed up by an agency with other priorities.

Preparedness is essential and our agencies are involved in preparedness. We go down to the grass roots level with people in every hamlet in the USA.

We have 356 clergy and lay leaders trained in seminars co-sponsored by American Red Cross, FEMA and Church World Service. These are geographically located throughout the USA. Four more seminars are scheduled.

We believe in mitigation, but we also know that when a disaster strikes, the service must be coordinated by one FCO and experienced staff delegated the responsibility to do the job as fast and efficiently as possible with full cooperation from other agencies. There can be only one "boss" in this important undertaking.

Sincerely,

Paul T. Morton

Paul T. Morton, Chairperson
Domestic Disaster Sub-Committee for
Church World Service

W. D. Dibrell

W. D. Dibrell,
Domestic Disaster Coordinator for
Church World Service

PTM/WDD/bsp

TESTIMONY OF HOLY CROSS HOSPITAL BEFORE
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

My name is Sister Ruth Marie Nickerson, and I am the Administrator of the Holy Cross Hospital of San Fernando, California.

Frankly, I am not comfortable being here in the position of criticizing an agency of the United States Government, especially when the government has helped us significantly in rebuilding our hospital. But that help has been too little, too late.

No one has tried more than we to cooperate with FEMA -- but we have been rebuffed, rebuked, and repudiated time after time after time by a handful of bureaucrats who seem to revel in minutiae while frustrating the will of Congress and our community's effort to restore vital health services destroyed by earthquake.

We are here today because we are convinced that the Federal Emergency Management Administration (FEMA) has failed to administer the Disaster Relief Act in the manner intended by the Congress. The grant it has given our Hospital is at least 25% less than the cost of eligible construction.

By summarizing very briefly our unhappy experience with FEMA, I hope that this Committee will understand the

unfairness, the arbitrariness, and the downright pettiness that have marked FEMA's (and its predecessor agencies') dealings with the Hospital I have the privilege of administering. I would like to suggest a specific legislative remedy for the problem we at Holy Cross, and a few other hospitals similarly situated, face.

Holy Cross Hospital is a non-profit facility operated by the Order of the Holy Cross, and located in San Fernando, California.

Our Hospital was destroyed in the severe earthquake of February 9, 1971.

In December of that year, the Congress (with Holy Cross Hospital, as well as Pacoima Memorial Lutheran Hospital in mind) passed an amendment to the Disaster Relief Act (Section 255) to provide federal funds to rebuild private non-profit hospitals destroyed by disaster in conformity with "applicable codes, specifications, and standards."

We rebuilt our hospital and opened the new facility on May 25, 1977. The total project cost is approximately \$30,000,000.

We have received a \$2.3 million Hill-Burton grant -- and an approximately \$17 million grant-in-lieu from FEMA. We are left with a shortfall of approximately \$7 million which we believe is due us from FEMA under the law passed by Congress.

The rebuilt Hospital is a spartan facility -- 25-50% smaller than the average of comparable hospitals built at approximately the same time in California and across the country. Everyone agrees that we built a "very modest" facility, including FEMA's own consultant. But FEMA has refused to pay the cost of building that facility, even though they had assured us they would do everything authorized by the law to assist us.

Today -- after years of meetings, letters, appeals, and pleading -- we at Holy Cross Hospital still find ourselves some \$7 million short of the 100 percent of the cost of replacing our destroyed facility which we were promised.

How can this be?

Our dealings with the heads of the agency -- whether it be John Macy of FEMA or William Wilcox -- consistently have been cordial, cooperative and constructive.

But the minute we have been turned over to the staff -- and one gentleman in particular -- quite the opposite has taken place.

There we have found suspicion, pettiness, and hostility. I have been accused of being "misleading" -- our attorney was questioned as to whether he was secretly taping a private conference with government officials -- and the intention of

Congress has been totally distorted over and over again. We have been met with numerous instances in which FEMA contradicted itself, went back on prior statements, made and insisted on unilateral and uninformed decisions, and after all else failed, resorted to doubletalk.

Let me be specific.

In 1972, FEMA appointed HEW to be its "project manager" for determining the space and cost necessary to build a facility that would be medically equivalent to the destroyed hospital. It instructed the Hospital to deal with HEW. On March 1, 1973, HEW, with the assistance of the California Department of Public Health, submitted its report. FEMA refused to accept that estimate of what had to be built, but gave no explanation for doing so.

Then, although it has no expertise in hospitals, FEMA prepared its own estimate. It estimated that a replacement facility could be built for approximately \$12,000,000. The Hospital, HEW, and the State Department of Health all complained that this estimate was based on a facility which would be too small to replace the destroyed hospital and did not reflect what the costs would be. FEMA replied that final payment would be based on actual costs. On that commitment the Hospital decided to go ahead and rebuild. The Hospital had

no funds with which it could rebuild and was totally dependent on FEMA advance payments, which were based on the \$12,000,000 estimate. The actual construction cost was much greater. The Hospital was rebuilt during a period of very rapid inflation, which drove up costs almost 40%. The Hospital borrowed the money necessary to offset the difference between FEMA's advances and the actual costs of construction. It was placed in deep financial difficulty by the refusal of FEMA to increase the amount it would recognize as eligible.

After the Hospital was built, FEMA refused to recognize the actual cost of construction in calculating the grant-in-lieu. It refused to recognize the higher costs attributable to inflation, despite having assured us it would recognize the actual costs. Finally, in late 1978 our attorneys convinced FEMA to recognize the correctness of our view.

FEMA also refused to pay the actual costs of complying with the applicable codes and licensing requirements. At first FEMA took the position that their responsibility to include in the grant-in-lieu the cost of complying with the "applicable codes and specifications" referred to the codes and specifications at the time of the disaster rather than those in effect at the time we rebuilt. It would be ridiculous to pay us to rebuild a hospital that could not open

because it did not meet codes. After two years of arguing about that issue, FEMA said it would pay for the cost of current codes -- as FEMA saw fit. It recognized some of the codes but not all.

As a result of these two concessions, extracted with great difficulty, FEMA increased our grant in 1978-79 for work done in 1975-77 by approximately \$3,000,000. It has recognized that the original estimate was \$3,000,000 too low. We had to borrow that money in order to complete construction. Because we had to pay interest at high rates for 3-4 years, the amount finally added to the grant was very deeply discounted.

We sought reimbursement for those financing charges. FEMA initially took the position that they were not allowed to pay interest. But our attorneys demonstrated that FEMA did have that authority. FEMA then admitted that it did indeed have the discretion to pay interest. But then, despite having said that it would provide the Hospital whatever was authorized under the law and decide all gray areas in favor of the Hospital, FEMA declined to use its discretion in our favor. It refused to include in our grant-in-lieu the financing costs incurred because FEMA, by its own admission, had refused to provide money the Hospital was entitled

to when it was needed. Gentlemen, there is something wrong with that kind of thinking.

Holy Cross Hospital nearly was unable to reopen after the earthquake because all of our working capital went for construction rather than operations. We nearly went bankrupt because FEMA refused -- and still refuses -- to give us the monies to which we are entitled under the law.

Even though FEMA finally recognized that it had underfunded the Hospital by \$3,000,000, it still has not paid the full eligible costs of building the replacement facility. It has refused to do so by taking a number of bizarre positions.

FEMA has said that in determining the size of the replacement hospital, no consideration should be given to the services provided by the destroyed hospital. This is absurd. First you must decide what services you wish to provide -- then you decide the configuration of a facility necessary to do so.

To make matters even more confusing, FEMA now tells us that, even if it looked at the hospital's services to determine what must be rebuilt, it would look only at the services provided when the hospital originally opened. Supposing we had originally opened in 1861 (instead of 1961 when we did open) -- would FEMA have insisted we have a department of leeching? Again I say: there is something terribly wrong with this kind of thinking.

Back in 1972 my predecessor Sister M. Bertrand prepared minutes of a meeting in which FEMA told the Hospital that reimbursement would be based on the services being provided immediately before the disaster of 1971.

FEMA now denies that OEP made that statement. To put it mildly, Sister Bertrand is outraged at FEMA's late attack on the validity of her minutes and on her veracity.

What we actually did build was the minimum size facility required to be licensed to replace the services being provided by the Hospital at the time of the disaster in accordance with the current codes and standards.

FEMA admits that it has not provided reimbursement sufficient to build a hospital building that can be licensed. It explicitly refuses to provide reimbursement necessary to meet licensing standards. This refusal is directly contrary to the statute, which provides that reimbursement shall be sufficient to comply with the applicable codes, standards, and specifications. There is nothing more "applicable" than licensing requirements. FEMA's refusal, moreover, is inconsistent with two written assurances by previous OEP directors in which they stated that reimbursement would be provided in an amount sufficient to build a facility that could be licensed. FEMA has limited reimbursement to the cost of

building a hospital which its own consultant says would have been "stupid" for the Hospital to build.

FEMA also has refused to provide funds to meet the Standards promulgated by the Joint Commission on the Accreditation of Hospitals. We could not be accredited -- nor could we serve Medicare patients -- if we did not comply with the Standards. FEMA, however, says that these Standards are not standards.

FEMA has refused to allow us to be reimbursed for the space necessary to convert our double-occupancy rooms to single-occupancy rooms, even though HEW's policy at the time of construction was that Hill-Burton assisted hospitals should be built with single-occupancy rooms for greater efficiency, flexibility and higher occupancy rates.

I could go on for days with examples of FEMA's disturbing conduct. I could even show you a letter in which FEMA rejected the size of the window built in my Administrator's office as being too big -- then perhaps you could understand our feeling of being nibbled to death by ducks.

We have been treated by the FEMA staff as if we are trying to cheat the United States Government. I resent this attitude and I think you should, too.

Very frankly, the problem is FEMA's abysmal lack of knowledge of how a hospital is built and operated and its unwillingness to acknowledge the facts.

We need your help. We have prepared a brief legislative amendment that would do nothing more than reaffirm the intent of the Congress when it provided grants for non-profit health facilities under the Disaster Relief Act. This legislation would require FEMA, where it provides grants to non-profit health facilities destroyed since January 1, 1971, to base the grant on the cost of replacing the services provided by the destroyed facility immediately prior to the disaster in conformity with the current codes, including licensing requirements. And secondly, where the federal grant upon which advance payments are based is less than the amount finally granted, the financing costs incurred by the hospital in borrowing the shortfall would be included in the final grant.

We respectfully urge you to take immediate action to require FEMA to help, not harass, the very people they are charged to serve.

My business is helping sick people. This is my mission in life. All I ask is that you fulfill the promise the government made to us almost 10 years ago.

Thank you very much for your time, your compassion, and your concern.

AMENDING THE DISASTER RELIEF ACT OF 1974

TUESDAY, APRIL 20, 1982

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT,
Washington, D.C.

The subcommittee met at 3:24 p.m., in room 4200 Dirksen Senate Office Building, Hon. Frank H. Murkowski (chairman of the subcommittee) presiding.

Present: Senator Murkowski.

OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. We will call the Subcommittee on Regional and Community Development to order at this time, and I will apologize for starting in a rather tardy manner, but we just had a vote.

With that, we will proceed.

As you will recall, last July, the Subcommittee on Regional and Community Development held 2 days of oversight hearings on the Disaster Relief Act of 1974, Public Law 93-288.

Based upon these hearings, several suggested changes to the act were recommended by the administration, and the experience of this committee, on March 22, I introduced Senate bill 2250, the Disaster Relief Act Amendments of 1982.

I am particularly gratified to have as cosponsors of the bill the chairman of the full committee, Senator Stafford, the ranking member of the full committee, Senator Randolph, and the ranking member of the subcommittee, Senator Burdick.

The Disaster Relief Act of 1974 was essentially written in this committee under the very able leadership of Senator Randolph and Senator Burdick, who, at that time, were chairmen of the full committee and the subcommittee, respectively.

I consider it a privilege to have their years of experience when we consider amendments to the act.

While the hearings last July focused on the overall act, today we will seek testimony on specific amendments contained in S. 2250. We are glad to hear from Mr. Lee Thomas, associate director of the Federal Emergency Management Agency [FEMA], who will represent the administration.

We also welcome a representative of the General Accounting Office, which recently published a report on the disaster relief program with specific recommendations to the Congress.

We are also glad to hear from a spokesman of the National Governors Association and officials who administer the disaster relief effort for the individual States, Nolan Jones, who will testify on behalf of the National Governors Association. I know that concerns have been expressed about several provisions of the legislation, particularly the costsharing formula for public facilities and the debris removal. We will be glad to receive any and all views and comments and to hear any suggestions or recommendations.

A number of interested individuals and groups have written. I will include written remarks in the record of the hearing for the committee's consideration. In this regard, the record will remain open 10 days for this purpose.

As to the order of witnesses, we would call Mr. Lee M. Thomas, Associate Director, Federal Emergency Management Agency to appear and please be seated at the witness table and introduce your associate. You may proceed.

You are accompanied, I understand, by Mr. Craig Annear, the Associate General Counsel; is that correct?

Mr. THOMAS. That is correct, Senator.

Senator MURKOWSKI. All right, Mr. Thomas, you may proceed with your testimony.

We will look forward to reviewing it.

You may proceed, sir.

STATEMENT OF LEE M. THOMAS, ASSOCIATE DIRECTOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, ACCOMPANIED BY CRAIG ANNEAR, ASSOCIATE GENERAL COUNSEL

Mr. THOMAS. Thank you, sir.

I appreciate the opportunity to be with you today and talk about S. 2250, amendments to the Disaster Relief Act.

You have a copy of my statement. If it would be entered into the record, I will take this opportunity to highlight that statement for you.

Senator MURKOWSKI. Please, so you may proceed with your review of your prepared statement.

Your prepared statement will appear in the record in its entirety.

Please proceed.

Mr. THOMAS. Thank you, sir.

First, I would like to take this opportunity to congratulate you and the other members of the committee and the members of your staff on the obviously comprehensive work that has been done that is embodied in this proposed amendment to the Disaster Relief Act.

We feel that it is a both comprehensive and well written document, one that we feel will substantially improve the administration of the disaster relief program in this administration.

There are a number of important provisions in this amendment that I would like to highlight for you and talk about the administration's position on each of those provisions, as well as make several recommendations of where we feel some possible changes could be made by the committee that would substantially improve the amendment.

First, in the area of disaster public assistance, as you know, under the Disaster Relief Act, we have the ability to provide assistance for emergency work, debris removal, and permanent restoration. I would like to begin by addressing specific components of the disaster public assistance program.

First is the component that you have already mentioned, cost-sharing provisions of 75-25. Included in this amendment are requirements for costsharing in both permanent restoration, as well as debris removal. However, it would allow for emergency work funding of up to 100 percent of the cost.

The administration feels very strongly that 75-25 is an appropriate costsharing provision to be incorporated in the act, specifically limited to debris removal and permanent restoration.

We feel that this insures the supplemental nature of the Federal support which is consistent with the basic intent of disaster relief as defined by the Congress; we feel it insures tight financial control over the projects once they are approved, and we feel that it insures a strong commitment on the part of the grantee to enact hazard mitigation alternatives and hazard mitigation measures as they proceed with specific project planning.

My second point of discussion is with regard to the provisions that incorporate small project grants under public assistance. We feel they are particularly appropriate and consistent with recommendations made by the administration.

Section 14 would allow for full payments on estimates for all small projects up to a ceiling to be established by regulation, \$25,000. This is particularly appropriate and will streamline significantly the administrative burden on State and local units of government during disaster recovery operations.

Next, we feel that there are anticipated at provisions of the bill that should be modified in the area of codes specifications and standards. Under the current authorities of the act, we have public assistance the ability to reimburse State and local units of government on public assistance projects for the cost of complying with required codes, specifications, and standards of the Federal, State, or local unit of government.

Under the proposed language of S. 2250, we will not be able to do that. We feel that that will place an additional financial burden on the local or State unit of government; and it will place an administrative burden on the administration, both at the State and the Federal level, in attempting to define what are the current costs for meeting codes specifications and standards versus what was the cost of the facility that is being restored at its original codes specification and standards status.

Additionally, we feel like it will negate our ability to provide a number of hazard mitigation measures and encourage hazard mitigation on the part of the local recipient.

So in the area of codes, specifications, and standards, we would encourage the committee to take a look at this provision and restore the ability which we currently have to pay for the upgrading of a facility to the current codes, specifications, and standards applicable to the jurisdiction.

A second major area within the bill are provisions relating to temporary housing. The Federal Emergency Management Agency

submitted, last year, several recommendations to the President of the Senate relating to temporary housing. Those recommendations have been incorporated in this amendment, recommendations relating to the automatic rent-free provision that currently exists; insuring that we take a look at the financial means of the individual; placing some limitation on the length of availability of Federal assistance for temporary housing; and also providing specific authority for us to allow State and local units of government to proceed with temporary housing. These are all provisions which you have included in the amendment, and provisions that we strongly support.

Another area that has been included in the amendment that we feel is particularly appropriate is the specific authority for the Attorney General to move to recover disaster relief expenditures from parties which caused or contributed to major disasters or emergencies.

The specific authority will provide sound legal basis for the Federal Government to move in situations where an identifiable party has caused or aggravated disaster damage.

Another major provision, and probably one of the most major provisions of S. 2250, is the further refining of the definition of "major disaster".

I recognize and I think the agency recognizes the concern of this committee over the need to limit the use of disaster relief. During my own confirmation hearings, the committee asked me a number of questions relating to the use of disaster relief funds and their application to natural versus non-natural disasters.

We feel that with the definition of "major disaster," that is incorporated in this amendment, as well as with the new provisions for "emergency" assistance, the committee has taken a well-reasoned approach in dealing with this problem. We think that the incorporation of natural in the definition of other catastrophes for major disasters is probably the simplest and most straightforward method for dealing with this concern of the committee.

We do understand that the change in this definition of disaster, however, would still insure that we were able to proceed in declarations for flood, fires, and explosions, which are specifically defined in the act as major disasters, without regard to determining whether those specific situations resulted from natural or nonnatural causes.

Other catastrophes would be those that are listed as "other natural catastrophes." Additionally, we understand that we would be able to proceed on a major disaster declaration for limited assistance where limited assistance was all that was required.

Finally, we understand that the new "emergency" assistance provision is basically a new title of the act which would provide, with very tight controls and severe limitations for the ability of the Federal Government to provide basic life-saving or property-protecting provisions of emergency assistance. This authority would be limited: it would only be for saving lives or protecting property; it would only be supplemental to the ability of State and local governments to respond; it would only be after we had first determined that there were no other adequate statutory authorities of Federal agencies to respond; that we had insured the coordination of existing

relief; and that we had provided technical assistance. Then, and only then, the financial assistance that would be available would be limited to emergency assistance with a cap of \$5 million which could be exceeded only with the specific authorization of the President. If he felt it was necessary to go beyond that cap, he would they have to report to Congress with the specific reasons why, and specify legislation, if appropriate, that may be needed in such an emergency situation.

We feel this is an appropriate provision and a very important provision.

So in closing, I would like to emphasize that we feel the 75-25 provisions of this amendment are particularly important and strongly supported by the administration. The issue relating to codes, specifications and standards, we feel, is one the committee should look at closely and should modify to allow us to proceed with the current statutory authorities. The definition of "major disaster" and the new provision relating to emergency assistance are very appropriate when taken together and would allow the Federal Government to provide assistance in a broad range of both "emergency" and "major disaster" situations.

Finally, I would like to say that we have a number of detailed comments on the amendment that we would like to submit for the record in the next several days during the period of time that you have already noted the record will be kept open.

I appreciate the opportunity to be with you today, and I, along with Mr. Annear, will be glad to respond to any questions you have.

Senator MURKOWSKI. Thank you, Mr. Thomas.

In your summary, you indicated authority and support, basically, for the 75-25 cost-sharing. The codes and standards you suggested needed modification. I wonder if you could indicate specifically in a little more detail.

I notice in your statement itself there is a little stronger language than was used in your testimony. I quote, "However, we oppose the requirement for the Governor to make * * *" and I wonder in those areas where you indicate some objection or dissatisfaction—you indicated definition of disasters was one area, and I refer to page 7, which I don't think was brought out in your testimony, again, that "We strongly oppose the retention of this authority," et cetera; and page 6, "Second, the change would substantially complicate the mechanism * * *," and on page 5, "We do not, however, agree with all of Section 14 * * *."

Somehow, I didn't catch that in your summation, nor did I pick it up in your general review of your statement. It appears to me that it was more objection than one would ordinarily pick up if you didn't read your prepared statement.

So let's take the time to walk through so we make sure we know what we are talking about. I would ask for some assistance from the staff to go through the prepared statement and point out where Mr. Thomas specifically objects, and we will see if we can't address those objections.

Mr. THOMAS. One that you have just mentioned is the one relating to codes, specifications, and standards.

Senator MURKOWSKI. Let's start with the first page. Do you have anything on the first page?

The second page, we agree it incorporates most of the legislative proposals. We have no problem.

I gather that is basically with the ratio, right?

Mr. THOMAS. Yes, sir.

Senator MURKOWSKI. So we go over to page 3.

You basically substantiate your agreement with the cost sharing.

Please stop me if you pick up anything.

Page 4, " * * * of reducing the burden of administrative costs and delays for small projects."

You have no difference of opinion there, I gather?

Mr. THOMAS. That is correct.

Senator MURKOWSKI. We go over to page 5 and we go to the second paragraph. Do you want to talk about the ceiling to be established, the \$25,000 per project? I gather you agree with that?

Mr. THOMAS. We do.

Senator MURKOWSKI. Let's go down to the next paragraph.

Mr. THOMAS. That is the provision where we discuss the issue of codes, specifications, and standards.

Senator MURKOWSKI. OK.

Mr. THOMAS. Under our current authority and current practice, when we go into a major disaster area with assistance, we have the ability to fund at a rate that allows the local unit of government to build back a facility at current codes, specifications, and standards. In other words, if your 1910 courthouse was washed away by a flood and you are going to rebuild that courthouse, you are going to be required to build it at the current codes, specifications, and standards.

Under our current authority, we could reimburse you for our share of that project based on your current day's cost. As we understand the provisions of the amendment, we would have to look at reimbursing you based on the code specifications that were in effect in 1910, even though you would be required to build it back to current day standards.

Senator MURKOWSKI. And you are suggesting that the legislation should authorize that reimbursement on the 75-25 concurrent costs—

Mr. THOMAS. That is correct.

Senator MURKOWSKI. That are realistic? You maintain these are not realistic. Basically, we are putting the Federal Government under a greater potential outlay than it would be under the present disaster relief.

Mr. THOMAS. No, it is not greater than the current disaster rate.

Senator MURKOWSKI. It isn't? OK.

Mr. THOMAS. The current disaster relief is at current codes, specifications, and standards, the current legislation.

Senator MURKOWSKI. The current legislation is at current codes and this legislation says it goes back to the original value in relationship to whatever the code might have been at the time it was built; is that what we are saying?

Mr. THOMAS. That is my understanding, yes, sir.

Senator MURKOWSKI. As far as saving, I can't say where it would save the Federal Government.

Mr. THOMAS. It won't.

Senator MURKOWSKI. It will cost the Federal Government.

Mr. THOMAS. It will.

What we are saying is we feel that is an unrealistic financial burden, at a time where we are going to a 75-25 costsharing approach, to place on the local unit of government. Additionally, our position is that the administrative burden in trying to separate out what was the cost at the original codes versus the cost at the current codes is going to be a tangled situation between the local unit of government, the builder that is rebuilding, the Federal agency—

Senator MURKOWSKI. Let's take an example so we all understand each other. You build a courthouse in 1850 and whatever codes existed at the time.

You have a disaster. It qualifies for assistance. Then we come along with a question of whether we have to meet new codes. Of course, you have to meet new codes, so that is push.

Mr. THOMAS. Correct.

Senator MURKOWSKI. The question whether the disaster relief somehow applies to the value of that building prior to the disaster; isn't it, rather than the realities of whether it does or does not meet codes?

Mr. THOMAS. We have the authority to reimburse applicants for bringing them back to predisaster condition as far as the function.

Senator MURKOWSKI. If you are going to comply with codes, how can you bring it back to predisaster?

Mr. THOMAS. I am talking about the capacity to perform the same function when I am talking about predisaster condition. In other words, you have a courthouse; you have the ability to hold court in that courthouse, but the codes, for instance, require now that you have certain plumbing; that you have certain heating; that you have certain electrical provisions in that building, or for instance, in some areas, that you have floodproofing, and that those would be incorporated under the current codes.

We pay our share, now, of incorporating those new standards into that building that were not required to be in that facility when it was built the first time, because there were no codes or there were lesser codes.

Under the amendment, as we understand it, we would not be allowed to pay our share of those current codes.

Senator MURKOWSKI. All right.

If you are not allowed to pay your share of the new codes, tell me specifically how you foresee that the Federal Government would be allowed to participate.

Mr. THOMAS. We suggest in this amendment to authorize as it is in the current act. The current law allows us to include current codes as eligible costs.

Senator MURKOWSKI. You are telling me how we can do it, but you are not telling me how we cannot do it.

Mr. THOMAS. The way we cannot do it is the way you have written it in this amendment. That is the prohibition.

Senator MURKOWSKI. Why can't we do it under the proposed amendment? I recognize it is easy to say, "We will bring it up to whatever our participation is, up to code." But if you propose the

amendment, if you are going to follow the amendment, you are going to try, I guess, to negotiate something that is less than adequate, but still may be functional.

Mr. THOMAS. That is what we would have to do the way the amendment is written.

Senator MURKOWSKI. Do you know how much more it would cost the Federal Government?

Mr. THOMAS. Between 10 and 15 percent.

Senator MURKOWSKI. How many of these in the last 5 years would we have that would qualify?

Mr. THOMAS. Pardon?

Senator MURKOWSKI. How many disasters in the last, say, 5 years, would qualify under the code?

Mr. THOMAS. Basically every one that we had that included public assistance relating to buildings and other facilities that incorporate codes and standards.

We have had estimates that would be 10-15 percent, would be the kind of figures that we are talking about.

Senator MURKOWSKI. As the amendment has been discussed with the staff, it was our understanding that now the Government pays for a higher standard. Under the bill, the States would bear the cost of complying with new codes.

Mr. THOMAS. That is correct.

Senator MURKOWSKI. That is good for the Government and not so good for the State.

Mr. THOMAS. That is correct.

Senator MURKOWSKI. OK. You have simply pointed out your concern and objection to this because you feel that it would reduce the grants to the State and local government in this manner.

Mr. THOMAS. We feel several things: One is that coupled with the provision of 75-25, it is an unrealistic financial burden to be placing on a State all at one time. Under the Disaster Relief Act, the 25 percent that we are currently placing on them is a substantial commitment.

We feel, second, the administrative burden that would go into trying to determine what would be the differentiation, what would be the differing cost on each project, would be substantial, at the State, local, and Federal levels.

Senator MURKOWSKI. Why couldn't FEMA use the funds spent by local government to bring a building up to code as part of the 25-percent local share?

Mr. ANNEAR. I think, Mr. Chairman, the proposed mechanism for establishing the 75-25 would go like this: The building is damaged. We estimate the entire eligible cost under FEMA standards and then simply reimburse 75 percent of that.

Mr. THOMAS. And under this amendment, code compliance would not be an eligible cost.

Senator MURKOWSKI. Run that by me one more time.

Mr. THOMAS. In other words, the amendment says that we are not able to participate in that portion of the restoration costs that relate to bringing the facility up to current codes and standards; it is ineligible.

So what we would be required to do would be to separate out that portion of the cost of restoring the building that relates to cur-

rent codes and standards. We can only participate, then, in 75 percent of what is left.

Senator MURKOWSKI. The record is going to be open for 10 days. The very concept of FEMA is based on an unknown factor. All we can do is go back to historical information. I think it would be appropriate to have, for the record, some relationship on an average of how much we have actually had in disasters of this type that it would come under code provisions in rehabilitation of a building and see how much money we are talking about.

Mr. THOMAS. OK. We will go back and we will try to pull together examples and averages for you.

Senator MURKOWSKI. Try to give us historical information on that, because we are putting a burden on it by the 25-75, of course, the requirement of 25 percent participation, and that is of some significance.

The realization to have to build and build to code is a practical realization as well.

Let's see what we are looking at.

Mr. THOMAS. All right.

[The following information was subsequently supplied:]

May 7, 1982

Estimated Cost of Complying with Current
Applicable Codes, Specifications and Standards
When Restoring Disaster Damaged Facilities

At the recent hearings a question was asked regarding the additional cost to the Federal government if the requirement to upgrade damaged facilities to meet applicable codes, specifications and standards were to be added to S. 2250. While it is not possible to break out actual costs for that purpose, we can make a reasonable estimate based on experience.

In fiscal year 1983 the total cost of disaster work accomplished by or for States and local governments is estimated to be \$250 million before the 75/25 cost sharing formula is applied. The \$250 million includes the cost of complying with applicable codes, however, it is estimated that \$75 million will be expended for debris removal, emergency work, and other items that would not be affected by such codes. The remaining \$175 million would be expended for permanent repair/restoration of damaged facilities. Our estimates of costs to meet applicable codes are outlined by category below:

Roads & Bridges

It is estimated that \$87.5 million would be expended on this category, \$40 million for roads and \$47.5 million for bridges. Due to the fact that most eligible road work is for repairs, very little increase in cost would be expected in order to meet applicable standards. Due to the large number of substandard bridges in the United States and the fact that such bridges are more susceptible to disaster damage because of age, size of waterway opening, etc., upgrading bridges to applicable standards is likely to cost a significant portion of the \$47.5 million. We estimate applicable standards may add as much as 30% to the cost of replacement of bridges. We estimate the breakdown of the \$47.5 million to be \$37 million for replacement in kind with an additional \$10.5 million required to upgrade the bridges to current applicable codes.

Water Control Facilities

It is estimated that about \$17.5 million would be expended for work in this category. The type of work included in this category is not generally covered by applicable standards, thus, it is expected that additional costs due to compliance with such standards would be less than 5% of the total expended or about \$800,000.

Public Buildings

It is estimated that about \$37.5 million would be expended for work in this category. The cost of meeting applicable codes on buildings varies widely with the degree of damage (i.e., a building that is repairable would not have as many new standards to comply with as a building that requires replacement). We estimate that costs of complying with applicable standards would be about 10% to 15% depending on degree of damage. The estimated breakdown of the \$37.5 million would be \$33 million for restoration to predisaster codes and an additional \$4.5 million would be incurred to comply with applicable standards.

Public Utilities

It is estimated that about \$17.5 million would be expended for work in this category. A significant portion of the work in this category is on electrical utility systems. Since such systems are so critical and potentially dangerous they generally comply with current codes and standards in effect prior to the disaster, and little additional cost would be expected. Further, the additional cost of complying with applicable standards on sewer work is also minimal. We estimate that compliance with applicable standards in utility work would be less than 5% of the total expended or about \$800,000.

Private Non-Profit Facilities

It is estimated that the cost of work in this category would be about \$12.5 million per year. Since these projects are primarily buildings and utilities, the additional cost of complying with applicable standards is expected to be similar to the percentages estimated for public buildings. We estimate about 10% additional cost would be required to comply with applicable standards. The breakdown of the \$12.5 million would be \$1.1 million for restoration to predisaster codes and an additional \$1.1 million would be required to upgrade the damaged buildings to current applicable codes.

Other

It is estimated that the cost of work in this category would be about \$2.5 million per year. Since most of the items included in this category are generally related to repair of parks, we do not believe that any funds would be required to comply with applicable standards.

Category	Cost* to Restore to Predisaster Design	Summary Cost* of Applicable Standards	Total Estimated Cost*
Roads & Bridges	77.0	10.5	87.5
Water Control Facilities	16.7	0.8	17.5
Public Buildings	33.0	4.5	37.5
Public Utilities	16.7	0.8	17.5
Private Non-Profit Facilities	11.4	1.1	12.5
Other	2.5	0	2.5
Grand Total	157.3	17.7	175.0

*In Millions

Under S. 2250 as it is presently written the \$17.7 million cost of complying with applicable standards would be the responsibility of the State or local government in addition to nearly \$39 million which they would pay for the 25% cost share. If restoration under S. 2250 allowed the Federal government to pay for the upgrading of facilities to current applicable codes, the total Federal cost would only increase by about 11%. It appears that any savings that may be accomplished by eliminating the requirement to meet applicable standards would be relatively small. We recommend that additional costs or upgrading facilities in accordance with applicable codes, specifications and standards be reimbursable under S. 2250.

Senator MURKOWSKI. You say, "The change would substantially complicate the mechanism,"—I think we have been through that.

Mr. THOMAS. Right. That is the same thing relating to the codes.

Senator MURKOWSKI. All right. Have you got anything else on page 6?

Mr. THOMAS. I don't believe so.

Senator MURKOWSKI. Page 7, "We strongly oppose the retention of this authority because we believe that if a particular facility need not be repaired or rebuilt * * *," let's talk about that.

Mr. THOMAS. This relates to the current authority's flexible funding which basically comes down to a determination that a community has had a loss of, say, a facility, but has determined that it doesn't want to replace that facility; it wants to use the money for some other purpose in that community.

Therefore, it comes in for flexible funding approach which means they can get 90 percent of the eligible Federal portion to go forward with their other project.

Senator MURKOWSKI. Doesn't a community have insurance on a facility if it burns, gets flooded?

Mr. THOMAS. If they do, they don't receive this.

Senator MURKOWSKI. How do we encourage them to carry it so the Government doesn't, in effect, end up taking on that additional exposure simply because communities know the Government will theoretically provide that assistance if—do you see my point?

Mr. THOMAS. Right, and we do have requirements, for instance, under the national flood insurance program that both individuals and communities, participate in the program.

Senator MURKOWSKI. My point is, how do we insure that they carry insurance just like anybody else?

Mr. ANNEAR. Under the national flood insurance program and the legislation, there is a requirement for those that receive assistance, Federal financial assistance for acquisition and construction purposes to insure their structure. Also, we must make sure the community is participating in that program.

Senator MURKOWSKI. But do we pay for them if they don't have insurance?

Mr. ANNEAR. No. If there has been a requirement imposed in connection with disaster relief, for example, that they have insurance and they fail to maintain that insurance, then the second time around they are denied funding.

Senator MURKOWSKI. Second time around; do you pay for it the first time?

Mr. ANNEAR. The first time, if the community was not participating at the time of the incident, they do have the opportunity to come into the national flood insurance program. Before we provide the assistance, applicants must purchase the appropriate flood insurance.

Senator MURKOWSKI. You said second time around.

The question is, Do you pay for it the first time they have a disaster?

Mr. ANNEAR. We can do that if we don't have a pre-existing requirement for insurance.

Senator MURKOWSKI. Why don't we have a pre-existing requirement?

Mr. ANNEAR. There was a section of the flood insurance legislation that provided for that, old section 1314.

Mr. THOMAS. What happened, Senator, quite frankly, with the section on that is the first time a community was hit with a flood, that section was changed by Congress because we were faced with a situation where we had a community that was under water.

We could not go in and provide any assistance. So that is where the first time free provision came from.

Senator MURKOWSKI. But by the same token, there are other forms of hazard.

Mr. THOMAS. Yes, sir.

Senator MURKOWSKI. How do we insure that they follow a prudent posture and not just depend on the Federal Government to provide them the coverage on the first time around and the next time, go get insurance? Because you know the taxpayers are paying for it anyway.

You suggest language that would address this?

Mr. THOMAS. I think we can suggest language that deals with that issue. As to whether it is the kind of requirement that you would like, I don't know. The national flood insurance issue—for instance, about 80 percent of the disasters are flooding disasters—has been a particularly difficult issue to deal with over the years, as I have read through the history of the program.

Senator MURKOWSKI. Let's have the record reflect that it is a concern to the Chair, and perhaps future witnesses will address this specific area, and I think it bears a responsible review by the committee, because this program, in particular, is to provide assistance in areas where, for various reasons, other types of hazard coverage is not adequate or not practical.

It is certainly not my intent as subcommittee chairman to have, in any way, these programs substitute for the normal available hazard insurance that is available on the market.

I think it is not a prerogative, but actually a responsibility of local governments to recognize their obligation to insure when hazard insurance is available.

Mr. THOMAS. Yes.

Senator MURKOWSKI. I would appreciate it, if you are so inclined, and I think it would be reasonably appropriate, at least in my way of thinking, for you to address the kind of language you would like to have that you could work with.

Mr. THOMAS. We definitely will get back with you. (See, comprehensive comments, p. 285.)

Senator MURKOWSKI. Because you relate more to these bodies directly and if you can have a say in a responsible approach, it might make it easier for all at hand.

Let's see; we are still on page 7.

What else have we got?

Mr. THOMAS. I think the next one dealt with temporary housing, and we agree with what the committee has incorporated into the amendment on temporary housing.

Senator MURKOWSKI. So we have, in your opinion, tightened up a little more responsibly in the housing area?

Mr. THOMAS. Very much so.

Senator MURKOWSKI. What else have we got?

Mr. THOMAS. I think the next section is where we pointed out—unless your staff has something else they want to talk about.

Senator MURKOWSKI. Yes, page 11, "However, we oppose the requirement for the Governor to make the proposed certification and commitment on the grounds that such requirements can delay." I don't understand. I always heard the Governor declared the disaster area, and it was a little after the fact anyway.

You people were usually on the scene, but it usually takes more than a few days.

Mr. THOMAS. I think what we were pointing out is under the new "emergency" provisions of the act, the language of new provisions picks up wording from the "major disaster" process, which is the requirements for commitment by the Governor. The kind of detailed information that would be submitted by the Governor would be inappropriate in the "emergency" situation, particularly with the limitations that you are placing on emergency assistance. It is viewed as basically an immediate situation, it is a life threatening situation; there are significant limitations on what we can do.

We just felt it was inappropriate to pick up that same language.

Senator MURKOWSKI. Is the implication that the Governor has to do all these things before you can move?

Mr. THOMAS. Yes, sir.

Senator MURKOWSKI. And that is the case now?

Mr. THOMAS. Before the President can take——

Senator MURKOWSKI. That is not the case now?

Mr. THOMAS. Yes, sir.

Senator MURKOWSKI. It is? I thought the Governor could declare as soon as we could, but you moved in ahead of that.

Mr. THOMAS. The Governor would not declare, but rather would make a request of the President that he declare.

Senator MURKOWSKI. But you were already in there.

Mr. THOMAS. But we are in doing basic damage survey reports. We don't have any authority—for instance, under the emergency assistance, we don't have any authority to actually expend any funds or actually do the things that are specified under this act until the President actually made that declaration.

We are saying that is the kind of information you are saying would be required of the Governor, and would be somewhat inappropriate in this kind of emergency situation as you have defined it.

We think that some modified wording is appropriate—and we could give you what we feel would be better proposed language. We think the kind of commitment you are talking about, it should be a commitment. The Governor exercises his emergency authorities, but the ability to get in and quickly begin to respond is what your whole emergency assistance provisions are all about, a little different than your disaster recovery provisions. (See, comprehensive comments, p. 244.)

We feel, therefore, the wording should be a little different.

Senator MURKOWSKI. In the bill it states that, "As a part of this request and as an improved requisite to emergency assistance under the act, the Governor shall take appropriate action under State law."

Mr. THOMAS. Correct.

Senator MURKOWSKI. No problem with that, "and direct execution of a State's emergency plan." I assume there is no problem.

Mr. THOMAS. No problem.

Senator MURKOWSKI. "We shall furnish information on the extent and nature of State resources which have been or will be used to allieviate conditions of the emergency."

Do you have a problem with that?

Mr. THOMAS. No, sir.

Senator MURKOWSKI. Because that is really part of, I assume, the State's emergency plan.

Mr. THOMAS. That is correct.

Senator MURKOWSKI. Then it says, "He shall simply certify" and I assume that is nothing more than, "I certify."

"* * * that for the current emergency, State and local government obligations and expenditures will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, et cetera."

That is what you object to?

Mr. THOMAS. That is where we get into a problem.

Senator MURKOWSKI. I don't see why that has to be any more complex than it appears.

Mr. THOMAS. That gets into beginning to make a determination on what portion the Governor is going to pay for, the Federal Government is going to pay for, the local government is going to pay for.

Senator MURKOWSKI. If we go into this thing on 75-25, then——

Mr. THOMAS. That is not the provision on the emergency assistance.

Senator MURKOWSKI. That isn't? What is it?

Mr. THOMAS. The emergency provision is up to 100 percent emergency assistance.

Senator MURKOWSKI. Then the language here, according to your explanation, says that there is going to be a little debate between what the Federal Government and the State government will do.

Mr. THOMAS. When the Governor comes in with the commitments that you just read through, we feel that is an appropriate authority to go through; that they have and are exercising their emergency plan; they are using State and local resources which are available.

We, then, ought to be able to move on that commitment to get into a Federal emergency.

Senator MURKOWSKI. What is the current emergency inclusive of?

What does it incorporate?

In other words, you have housing over on one side. You have the 25-75 for replacement on the other, and then we have this area of current emergency; that is life at stake.

Is it that type of thing? I mean, where do you cut it off and define what goes into what pot?

Mr. THOMAS. You are talking about under this proposed section, the emergency assistance provisions?

Senator MURKOWSKI. We are talking about the word you don't like, certify.

Mr. THOMAS. I am not sure I understand exactly what you are talking about.

Senator MURKOWSKI. You object to this wording. Do you know what I am talking about?

Mr. THOMAS. Yes, and I think what I am talking about there—and it may be that we don't have that much of a disagreement. I guess I am concerned about that the bill was picked up the same language for the predeclaration procedures for an emergency assistance that the current law has for a major disaster.

We feel like we are dealing with two significant different situations, two different timeframes. Emergency assistance is the kind of life threatening situation that you just referred to. We feel that we ought to have the ability to move in much more quickly without the requirement to gather the detailed information on State commitment, local commitment, Federal commitment and begin to talk about eligible costs that are required under disasters in order to get in and do the kinds of things that you have authorized under this emergency assistance that we think is very important.

I guess it is a timeliness issue more than anything else.

Senator MURKOWSKI. We will have to take a 2-minute recess while the Chair speaks with the staff.

Please excuse us.

[Short recess.]

Senator MURKOWSKI. Thank you for your participation.

We were discussing the language in your testimony on the bill on page 3, and it is the consensus that your concern over certification is well founded and we will attempt to try and place in language that would not curtail you in responding to any emergency condition from the standpoint of any needless or unnecessary delay which can be imagined, and staff will address that.

There is one other area that was clarified for me that you might not feel that we have been as responsive on, and that is the 67-percent total.

Mr. THOMAS. Yes, sir.

Senator MURKOWSKI. It is my understanding that if a municipal building is damaged or destroyed, there may be a situation where there might not be any need to have it rebuilt.

With the State's contribution of 25 percent vis-a-vis the Federal contribution of 75 percent, it would appear that the State would probably want something built.

Mr. THOMAS. Yes, sir.

Senator MURKOWSKI. Then the question of justification of the reduction of the Federal participation comes to mind.

I think in fairness to the Federal Government in its position that there should be some consideration given to a lesser participation, and that is what we have done here. I think that there is a reasonable case to be made for it. I would like to hear one more time your justification for opposing it.

Mr. THOMAS. I guess our proposal in that regard was more conservative than yours; that is, that we understand the reduction to the 67 percent. The statement we were making was that the facility that had been destroyed did not need to be replaced; then we shouldn't provide any support.

Senator MURKOWSKI. At all?

Mr. THOMAS. Yes, sir.

Senator MURKOWSKI. I think we had better quit there. I very much appreciate your testimony. Do all 50 of the States have disaster plans at the present time?

Mr. THOMAS. The improvement grants? No, sir, they don't. It differs basically from year to year. We make grants available each year. Most States—and by most I am talking about 45 out of the 50—anyway, participate every year.

Senator MURKOWSKI. Senate bill 2250 and the administration proposes to raise the disaster plan grants to the States from \$25,000 to \$50,000; is that right?

Mr. THOMAS. Yes, sir.

Senator MURKOWSKI. That wasn't covered in the testimony.

Mr. THOMAS. I don't believe it was. However, it is a proposal that the administration submitted previously and—

Senator MURKOWSKI. That is a pretty hefty increase when we are turning around and requiring that the States participate 25 percent, the Federal Government 75 percent, and then we give them double the grant funds.

What is the justification for doubling it all of a sudden when we have pretty good participation without it?

Mr. THOMAS. Really, we feel that the \$25,000, and under the proposal, \$50,000, is very cost-effective for the Federal Government in that what it does is encourages—because it is a 50-50 match in grant processing—encourages the States to undertake preparedness projects at a State and local level to, in effect, insure that they have the capability to respond to emergencies and disasters at a State level; that they have specific plans that would both mitigate—

Senator MURKOWSKI. Isn't that a responsibility of the State anyway, and we provide a disaster relief program and the funding, and if you have prudent operation in your State government, it is a responsibility?

Mr. THOMAS. I guess the provisions of this is in the context of a comprehensive emergency management approach, and that is in addition to the recovery assistance, we also, from a cost-effectiveness point of view, encourage preparedness and participating on a 50-50 basis.

Senator MURKOWSKI. Do you think you get better preparedness because you give them an extra \$25,000?

Mr. THOMAS. Absolutely.

Senator MURKOWSKI. What does it cost to prepare one of these plans?

Mr. THOMAS. The grants are used basically for a variety of purposes. One year, they would use it, for instance, to work up, say, a specific evacuation plan for a high hazard area.

Senator MURKOWSKI. Do they hire a consultant?

Mr. THOMAS. They do it either with their own staff or with a contract person.

Senator MURKOWSKI. And we would give them \$50,000 a year to maintain this plan?

Mr. THOMAS. And they would put in \$50,000 of their own. One of the things in the disaster relief—

Senator MURKOWSKI. Just a minute.

Do we give them \$50,000 every year under this proposal?

Mr. THOMAS. Under this proposal, we would make available to them \$50,000 per year to match \$50,000 from the State.

Senator MURKOWSKI. If they didn't match it?

Mr. THOMAS. Then they didn't get it.

Senator MURKOWSKI. They didn't get it. What were we doing before, giving them \$25 and they were matching \$25?

Mr. THOMAS. That is right.

Senator MURKOWSKI. Suddenly, if we start doubling everything around the Federal Government, why, we would be in big trouble, bigger than we are now.

Mr. THOMAS. That is correct.

Senator MURKOWSKI. I am just trying to relate the justification from going from \$25,000 to \$50,000 all of a sudden.

Mr. THOMAS. Probably a couple of things: One is that the intent of the preparedness improvement projects was to update and improve the overall emergency preparedness plan that was developed and required of each State when the Disaster Relief Act was passed. As you know, when a Governor comes in and asks for funds, he has to certify that he has put in place his emergency plan.

There were funds made available to every State a number of years ago to develop an overall State plan for emergency preparedness, a disaster preparedness plan. These grants are used to update and improve that plan. What we have found, over time, since this \$25,000 has not been changed since the program was started in 1970, is that in fact, we get much less buying power for that money that we are putting up. The locals and States are overmatching by a large extent in this area. They have come in, met with us on a number of occasions, and we feel there is a justification to go to the \$50,000.

Senator MURKOWSKI. How many States last year got \$25,000?

Mr. THOMAS. I will have to supply that for the record.

[The following information was subsequently supplied:]

Of the 49 States requesting improvement grants in fiscal year 1981, 28 States requested, and matched, \$25,000. The remaining States requested, and matched, grants ranging from \$4,000 to \$24,000.

Senator MURKOWSKI. Do you have any idea, half, all of it?

Mr. THOMAS. No, I would state probably over 40.

Senator MURKOWSKI. Over 40?

Mr. THOMAS. Yes.

Senator MURKOWSKI. I don't think you have made a very good case for throwing another \$25,000 at each of the States.

Mr. THOMAS. Basically what we do is, it is not really throwing it at them. What we do is make available up to that amount of federal money.

Senator MURKOWSKI. If they are willing to match.

Mr. THOMAS. No, it is not only if they are willing to match it.

Senator MURKOWSKI. You said you didn't give it to them if they didn't match it.

Mr. THOMAS. The matching is one part of it, but the substance of it is the other. They don't just do with it as they see fit. They come in with specific proposals and we see how it relates to disaster pre-

paredness needs. If the project doesn't make any sense from a Federal point of view relating to the disaster recovery and disaster relief, we do not go with it.

Senator MURKOWSKI. Have you turned any of them down?

Mr. THOMAS. I'm sure we have.

Senator MURKOWSKI. How can you justify doubling a grant in view of the present climate existing around Capitol Hill?

Mr. THOMAS. The justification in this regard, has to do with cost offsetting. We feel that there is justification for increased funding for preparedness which will result, in the long run, in decreased funding for recovery.

Senator MURKOWSKI. I agree with you; plans can save you money, but by the same token, the type of disasters that we are ordinarily confronted with cost so much money anyway, and the responsibility of this type of legislation to assist in disasters, it is pretty hard to relate to, in my opinion, the realities of what another \$25,000, maximum, would do.

I am not going to pursue it, but I do not feel that it evidences the type of thing that we are trying to do in the federalism concept, that of more responsibility to States, but the States prioritize their own affairs, the block grant concept.

I really question the fact that we are getting any more for another \$25,000.

Anyway, that will be reflected in the record.

[The following information was subsequently supplied:]

JUSTIFICATION FOR INCREASING DISASTER PREPAREDNESS IMPROVEMENT GRANT MAXIMUM

The Disaster Preparedness Improvement Grant Program provides financial assistance to States to enhance State and local preparedness, mitigation, response and recovery plans and capabilities for natural and man-caused disasters and emergencies.

An increase in the Improvement Grant maximum under Section 201(d) of Public Law 93-288 from \$25,000 to \$50,000 is proposed for these reasons:

Inflation has diminished the effectiveness of the \$25,000. State capabilities are steadily decreasing because of the inflationary toll. The amount has never been changed, since first authorized in the 1970 Act, despite the considerable loss of buying power over the past 11 years. While the grant provides for 50-50 matching, the record shows many States have had to provide far more than half of the total cost just to maintain the same level of effort from year to year. FEMA's proposal to the Congress pointed out that the \$25,000 matching Federal funds authorized in 1970 would require \$53,587 in 1981 funds to buy the same goods and services; that requirement would be even greater today.

Various emergency management and public interest groups have expressed that the Improvement Grant needs to be expanded to at least \$50,000. Among these various groups are the National Governors Association and the National Emergency Management Association.

The relatively small additional cost to the Federal Government—less than \$1.5 million annually—must be weighed against its potential for saving lives, reducing property losses, and speeding response and recovery—the main objective of work performed through the grant.

Proposed changes in the Disaster Relief Act of 1974 will require corresponding changes in State and local plans and procedures, putting an extra burden on the Improvement Grant.

The grants can be—and are—used for a wide variety of activities related to disaster prevention, mitigation, response and recovery: plans and procedures, training and public information, tests and exercises, preparing legislation and mutual aid agreements, risk and damage analyses—for disasters in general or any kind of natural or technological hazard—so long as the project meets State and local needs and is relevant to improving, maintaining, and updating State disaster assistance plans.

The current grant size limits the work that can be accomplished, unless the States supply more than half of the total cost.

The General Accounting Office reviewed disaster assistance plans for several States and recommended that the following tasks be identified as high-priority items and be accomplished via the Improvement Grant to enhance States' capabilities to respond to disasters: Implementing procedures for disaster tasks assigned to State agencies. Review of local emergency plans to assure compatibility with the State Emergency Plan. Development of training programs to train State and local personnel in their responsibilities during a disaster.

The Improvement Grant provides funding not generally available from other sources for achieving program objectives for various disaster assistance programs (Individual Assistance, Public Assistance, Mitigation) and contingency planning for potential natural catastrophes, radiological incidents, and other technological hazards.

The Improvement Grant serves to enhance State and local capabilities to mitigate or respond to the broad range of potential disasters. This makes it an important and effective aid to comprehensive emergency management.

Senator MURKOWSKI. The committee has had experience in the past with a difficulty in budgeting for disasters, and this bill would set a budget authority for fiscal year 1983 at a level, but as for fiscal years 1984 and 1985, the bill authorizes such sums as necessary. That seems a bit inconsistent.

Mr. THOMAS. We have what we feel is appropriate, and this came up, I think, when we talked about appropriation before the committee and our appropriation request for 1983.

We have estimates at this time which we feel are fairly realistic for fiscal year 1983 on disaster funding.

As you know, and quite well, trying to predict how much money is needed for a particular disaster year is very difficult, at best.

What we have done is, we have taken an estimate of funding over a 5-year period of time; we have come up with approximately \$500 million has been the estimate that has been the experience over the last 5 years. The authorization that has been requested for 1983 reflects that; 1984 and 1985 we don't feel we have the kind of information to establish a ceiling.

Senator MURKOWSKI. You are carrying forward each year an accumulated fund.

Mr. THOMAS. That is correct.

Senator MURKOWSKI. And that happened by accident because you, for some reason or another—

Mr. THOMAS. Some years we do not carry it forward; we go for a supplemental.

Senator MURKOWSKI. I guess I am trying to relate to how you take something that just happened to be there, is carried over, and add to that a specific amount and that is your fiscal year 1983 request which looks like an estimated guess and then just go on in 1984 and 1985 and say, "What we couldn't meet is what we spent."

You are still going to have something carried forward. You will have as much change in 1984 and 1985 as you have had before.

Mr. THOMAS. We will, and I guess we are saying in 1984 and 1985 in the appropriation process is where Congress makes that determination as to whether we go up or whether we go down, based on the experience of this year and next.

Senator MURKOWSKI. Let's talk a little about the fact that this legislation provides an incentive bonus to States that act expeditiously to complete the family grant application; is that right?

Mr. THOMAS. That is the 3-percent provision.

Mr. ANNEAR. Right, the section dealing with the individual and family grant program would provide, in addition to the current 3-percent reimbursement for administrative costs, 50 percent of the excess of that in the situations where these States had responsibly provided the grants to the individuals and families that were authorized.

Senator MURKOWSKI. How much does it cost to administrate just the bookkeeping on one of these family grants in an emergency application programs? It seems like an awful lot of functional paperwork. Isn't there a simpler way to do it?

Mr. THOMAS. The estimate of 3 percent is the administrative cost on the family grant program.

Senator MURKOWSKI. Is that a realistic estimate?

Mr. THOMAS. It is probably low.

Senator MURKOWSKI. I would concur that it is probably very low. I have never seen even the highest costing programs dealing with the functional administration of it.

Mr. THOMAS. I think you will probably hear a good bit from the State officials about it.

Senator MURKOWSKI. They don't like it?

Mr. THOMAS. They think it is low.

Senator MURKOWSKI. Do you think it is low? Why do you use 3 percent?

Mr. THOMAS. The statute currently establishes a ceiling at 3 percent. It is a 75-25 program; it has been for a long time. The States put in 25 percent and administer the program. We reimburse them for a portion of the administrative expenses.

Senator MURKOWSKI. What is the advantage of providing an incentive bonus to the State that acts expeditiously? Why shouldn't the State act expeditiously? Why should we have to give them a bonus?

Mr. THOMAS. They should act expeditiously. We think the added financial provision would help insure that they act expeditiously. We think that a point of concern in disasters is to expeditiously get the money to the people.

Senator MURKOWSKI. I am going to look forward to talking to some of the State people. From the standpoint of the nature of a disaster and what it dictates, it behooves everybody to cooperate in an expeditious manner, but to have to hold out some bait, I think, is an unrealistic approach.

Good heavens. If they are not handling it properly, the Governor of that State has the authority and the flexibility to act accordingly.

Mr. THOMAS. I don't disagree with you, Senator.

Senator MURKOWSKI. OK. Are you in favor of this bait to be provided to the States in an incentive bonus?

Mr. THOMAS. If we could work out a provision, I would like to, through properly administrative controls.

Senator MURKOWSKI. Well, you administer it.

Mr. THOMAS. That's correct.

Senator MURKOWSKI. So you can set up the proper administrative controls, but do we need an incentive?

Mr. THOMAS. I think as long as the 3-percent rate is there, we need some kind of incentive.

Senator MURKOWSKI. Why?

Mr. THOMAS. Because 3 percent is low.

Senator MURKOWSKI. We both seem to acknowledge, at least, that maybe 3 percent is unrealistic, but we are going to hear testimony on, I assume, the adequacy of it, and we still have, in the language here, an incentive bonus.

Mr. THOMAS. I would like to see when the committee takes it up, you take up the issue of 3 percent and changing the 3 percent; I think what the State people would propose to you is that we ought to be providing what is real administrative cost, and then we won't have to worry about bait.

Senator MURKOWSKI. OK. Let's assume we are in agreement, you and I, at least it is not a good posture for the Federal Government to offer bait to States.

Mr. THOMAS. Yes.

Senator MURKOWSKI. Let's talk about the facilitating of state crisis counseling organizations to participate in the crisis counseling program now under—don't give me any more initials. What does that mean? National Institute of Mental Health.

Mr. THOMAS. Under the current requirements, the crisis counseling program is one that we have to enact through the guidance of the National Institute of Mental Health. The crisis counseling program, as you know, is a program that can be used after a disaster to provide counseling assistance to disaster victims.

Under the proposed change, we would have the flexibility of using other mental health resources, and not necessarily going through the National Institute of Mental Health.

Senator MURKOWSKI. How much would this cost?

Mr. THOMAS. The average cost of crisis counseling on an annual basis in disaster averages around \$300,000 or \$400,000.

Senator MURKOWSKI. And this is not a line item?

Mr. THOMAS. It comes under the disaster relief program, and once we declare a disaster, we can receive an application for crisis counseling if it is appropriate.

Senator MURKOWSKI. Who determines the appropriateness of it?

Mr. THOMAS. We do, with the National Institute of Mental Health.

Senator MURKOWSKI. Does a Governor have to have something?

Mr. THOMAS. Certainly, certainly. It comes through the State officials into our agency.

Senator MURKOWSKI. Traditionally in disasters, historically, have you used this?

Mr. THOMAS. We don't use it very often.

Senator MURKOWSKI. Is it asked for often?

Mr. THOMAS. No, sir.

Senator MURKOWSKI. How often is not very often?

Mr. THOMAS. When you consider that the total cost of a program ran on an average of \$500 million a year, crisis counseling is \$300,000 a year, it is a very small program, a very small part of the disaster relief program. It is used, when I say not very often, since I have been there over the past 6 months, I have seen one request for crisis counseling in on a disaster. I have been involved with declarations in probably close to 15 disasters.

Senator MURKOWSKI. It doesn't seem to be something that is going to threaten the adequacy of your funding.

Mr. THOMAS. Not at all.

Senator MURKOWSKI. The confusion seems to be, since we are looking at a budget proposal that is openended in 1984 and 1985, you could include a substantial amount in a recommendation for crisis counseling which would move some of your disaster authorization money into crisis counseling.

Mr. THOMAS. I guess I just don't feel that based on the experience I have had that there would be any financial implications to the kind of changes you are talking about.

Senator MURKOWSKI. Let's let the record reflect that, that crisis counseling is something very specific, and while we don't totally rule it out, it is not something which we expect to come in and substantially enhance what your traditional budget has gone for.

I note we are adding language to permit legal action by the Governor to recover funds from parties found to be responsible for actions leading to an emergency. Give me an example of what you might be talking about.

Mr. THOMAS. One, it would be to give us the specific authority in order to do that, it would be, say—

Senator MURKOWSKI. What would happen? What has to happen for you to do that?

Mr. THOMAS. Take, for example, the Louisville sewer explosion.

Senator MURKOWSKI. The what?

Mr. THOMAS. The Louisville sewer explosion; it was a major explosion that blew up the sewers in Louisville. A major disaster was declared. It would give us clearer authority to go in, by the Attorney General, and actually file suit if he felt there was a contributing cause in that case against the individuals or the companies that may have had contributory part to that explosion.

Senator MURKOWSKI. Would that go back to the Federal Government and the States on the proportional 25-75?

Mr. THOMAS. Typically it would. It would go back into whatever—well, we would go on the part of the Federal Government to recover the Federal Government's part.

Senator MURKOWSKI. Have we had any input or testimony relative to what additional costs might be incurred to any entity in order to carry some kind of disaster insurance to cover them, public utilities, say, from what we are prepared to put in the amendment, the amending bill?

Mr. THOMAS. No, sir. We don't feel—I'm not sure that there are those kinds of financial implications for public utilities.

Senator MURKOWSKI. So if we had a situation today where you were authorized to go back and recover from parties allegedly who were responsible, that is not something that they don't insure for now, is that what you are telling me?

Mr. THOMAS. I guess in that case what, for instance, we are talking about is a private concern that we would be going against in the example I gave you.

As a matter of fact, suit has been entered by the local jurisdiction, I believe not the State in that particular case, against the private concern that they felt contributed to this explosion.

Senator MURKOWSKI. I don't feel this is any different. Haven't you had that previously?

Mr. THOMAS. It is implied. It is specific authority for the Attorney General in this case.

Senator MURKOWSKI. I think you have been most cooperative. I think we have gotten into some areas that perhaps needed some explanation. I thank you, Mr. Thomas, and Mr. Annear. We look forward to your clarification in the record during the next 10 days.

Mr. THOMAS. Thank you, Senator.

Senator MURKOWSKI. I would like to call on our next witness, Mr. Lowell Dodge, Associate Director of the General Accounting Office who will be accompanied by Ron Wood and John Pennington.

STATEMENT OF LOWELL DODGE, ASSOCIATE DIRECTOR, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY RON WOOD AND JOHN PENNINGTON

Senator MURKOWSKI. Please proceed.

In view of the fact that we have taken a little more time than I had hoped, but on the other hand, I felt it appropriate to get into those areas, I would appreciate it if you would abbreviate your testimony or highlight it. Of course, the entire testimony will be entered into the record in its entirety. Would you please identify yourself and introduce your associates?

Mr. DODGE. Mr. Chairman, my name is Lowell Dodge. To my right is Ron Wood; to my left is John Pennington.

We welcome your invitation to be here today to discuss the results of some of our past and current reviews of Federal assistance administered by the Federal Emergency Management Agency and to offer comments on Senate bill 2250, a bill to amend the Disaster Relief Act of 1974. We will omit portions of the statement as we proceed, Mr. Chairman.

I understand that the entire text will be included in the record.

Senator MURKOWSKI. That is correct.

Mr. DODGE. In December 1981 we issued a report entitled, "Requests for Federal Disaster Assistance Need Better Evaluation." This report identifies two important actions taken by FEMA which have raised concern over whether FEMA has, in effect, altered the scope of the Disaster Relief Act. The issues presented by both of these actions are addressed in Senate bill 2250.

First, is the 75-25 cost-sharing issue.

In May 1980, FEMA adopted a general policy of requiring the State and local governments to agree to pay 25 percent of the eligible costs of the public assistance portion of disaster relief provided by the Federal Government. This policy was intended to remove administrative problems associated with attempting to determine a reasonable commitment of State and local funds for each disaster. It also helps assure compliance with the statutory intent that the Federal aid be supplemental.

Our review of FEMA's costsharing policy found that it is consistent with the existing Disaster Relief Act, but to put to rest a controversy over this policy, GAO recommended that the Congress clarify the extent of the State and local contribution that should be committed before supplemental Federal assistance is provided.

Section 14 of Senate bill 2250 would provide needed clarification of congressional intent on costsharing by limiting the Federal contribution for public assistance projects to 75 percent of net eligible costs.

By stating the Federal share in terms of a 75-percent limit, this provision would allow for a lesser Federal contribution where a State is capable of paying more than a 25-percent share. We suggest that the Congress consider making it explicit that the President may require a State to contribute more than 25 percent upon a finding that a State is capable of doing so.

In short, we believe FEMA should continue to evaluate each recipient's capability to handle its own disaster relief needs and limit the Federal contribution accordingly.

Senator MURKOWSKI. I am going to interrupt you in this because I think it will expedite the questioning since I am the only one here. That recommendation of FEMA reviewing and evaluating each recipient's capability takes in an awful lot of consideration, State bonded indebtedness. I don't quite feel comfortable with the degree that might be associated with that type of analysis.

Mr. DODGE. Our report does, indeed, confirm that the process of determining a reasonable contribution by a State is, indeed, a complex one. For that reason, we do not oppose benchmarking, more or less, at 75-25, the relative Federal and State shares.

To view the matter as a rigid and automatic division is not appropriate in view of the fact that there may well be disasters that are so major that a 25-percent share imposed upon any State in combination with what its counties and local jurisdictions can contribute may be less than they can afford.

Senator MURKOWSKI. I suggest that what you do is in the next 10 days, while the record is open, attempt to come up with some type of an application that you feel has some equity associated with it that is relatively simple. We don't want to create a situation like we have done with our income tax, where you can't do it any more and now everybody is suggesting average it out and what difference does it make?

Some of them have got some pretty good arguments. I don't want to see FEMA have to hire a staff of accountants and consultants to analyze the assets of each State and rate them and then, obviously, you would have a question in the State as to its capability to meet whatever the requirements were.

Mr. DODGE. GAO suggests that the 75-25 cost-sharing requirement be applied flexibly, rather than rigidly. FEMA could accomplish this by treating the 75-25 division as a division it will presume to be equitable and workable, as a starting point. However, if a State could show that a 25-percent State/local share was unduly burdensome, then FEMA would adjust the State/local share accordingly. Conversely, if FEMA could show that a 25-percent State/local share is less than State and local government could reasonably contribute, then FEMA could require a larger share. In short, the 75-25 percent division should be viewed as a rebuttable presumption, with the goal remaining a reasonable State/local contribution.

FEMA is in the process of adopting a number of GAO recommendations which will expedite FEMA's assessment of the level of ca-

pability each State could attain and aid FEMA in evaluating the reasonableness of State commitments. FEMA will then be in a position of determining whether a 75-25-percent-cost-sharing arrangement is equitable, or whether State and local governments are capable of contributing a greater or lesser share of the costs, based on their ability to pay. This flexible approach should not significantly increase program administration or appeal actions.

FEMA's ability to make timely and proper assessments would be further enhanced if Congress would adopt GAO's recommendation and: (1) Direct FEMA to prepare a comprehensive analysis of the impact of potential State inequities on Federal disaster assistance; and (2) submit to the Congress a detailed plan and legislative changes to correct such weaknesses.

Section 13 of the bill proposes that the President be authorized to lend or advance to a State its 25 percent share in any case where the State is unable to assume responsibility for its share.

Section 13 sets no constraints on repayment terms except to provide that after 2 years a State's outstanding obligation shall bear interest at a rate to be determined by the Secretary of the Treasury. This requirement should encourage prompt repayment by the States.

We do not believe that the Congress should enact the 75-25 cost-sharing requirements of section 14 of the bill without also enacting section 13 which allows flexibility of repayment. We would suggest, further, that the amendment authorize the President, after any such loan is advanced to the State, to relieve the State of any part of its obligation to repay upon the finding that repayment of the full amount owed by the State would impose an undue burden as could be the case in an extraordinary disaster.

Moving to the second issue, our December 1981 report addresses the question of whether a Federal disaster fund should be available for nonnatural disaster. In 1980, Federal emergency assistance was provided to assist States in handling such situations as the Love Canal chemical contamination issue and the Cuban refugee influx. These actions stirred considerable controversy regarding whether nonnatural catastrophes are within the purview of the existing law.

The current law is not entirely clear on this matter, though it does allow the President to make declarations for other catastrophes as well as for specified natural catastrophes. We recommended in our report that the Congress clarify the act with regard to the extent to which supplemental Federal assistance should be given in a major disaster and the types of incidents would qualify.

Section 5 of the bill would address this concern by amending the definition of major disaster to limit disasters in this category to natural disasters. At the same time, section 3 would amend the definition of emergency to make it clear that the President could declare an emergency for any type of catastrophe. We understand this definition would include social, economic, or other manmade phenomena or incidents.

We believe this proposed clarification is consistent with our recommendation. We would, in addition, note our support for the notification provisions proposed in section 4 of Senate bill 2250. This section would, in effect, establish a mechanism to enable the Con-

gress to monitor, on a case by case basis, emergencies requiring significant expenditures of Federal funds, including funds for non-natural disasters. Section 4 accomplishes this end by requiring the President to inform the Congress of the nature and extent of emergency assistance requirements in any instance where the President determines that the Federal emergency assistance must exceed a \$5 million level set forth in the section.

We are currently reviewing Federal disaster assistance provided to States and local communities and are finding a number of problems. For example, we believe FEMA needs to improve its system for delivering public disaster assistance and it needs to change the practice of reimbursing for the reconstruction or repair of structures that were not insured.

Senator MURKOWSKI. Why aren't they insured?

Mr. DODGE. FEMA does not presently require that these structures be insured prior to the first provision of disaster assistance.

Senator MURKOWSKI. Is your recommendation that they should require insurance?

Mr. DODGE. Yes, it is.

Senator MURKOWSKI. All right.

Mr. DODGE. Going back to the issue of the improvements needed in the delivery system that FEMA now has in place, our review has disclosed that a general feeling of dissatisfaction exists among State and local relief recipients concerning many aspects of FEMA's assistance delivery process.

In large measure, we believe these conditions are the result of problems inherent in FEMA's current system for providing public disaster assistance. FEMA relies on parttime and temporary staff from other Federal agencies to augment FEMA's regional staff under the stressful conditions following a disaster. Though they do receive training, these personnel are generally unfamiliar with FEMA's cost reimbursement criteria, yet they are called upon to make many immediate and subjective judgments regarding complicated cost eligibility situations.

Many of these decisions are subsequently reversed, creating much dissatisfaction at the State and local level. In addition, the paperwork burden is enormous.

Senator MURKOWSKI. Can you go ahead and summarize the remaining text?

Mr. DODGE. Sure.

To address this situation, we support the provision in section 14 which would amend the act to permit FEMA to make contributions on small projects based on the Federal estimate of net eligible cost. We support that provision, similar to one initially proposed by FEMA, because it would reduce paperwork and eliminate administrative burdens. But we would like to suggest that the Congress view this as an interim step progressing toward a system permitting State and local applicants to exercise more complete discretion in allocating disaster relief funds such as a lump-sum delivery system.

As I mentioned before, we do support making the insurance of structures covered by disaster relief mandatory prior to the first provision of disaster assistance.

That concludes the prepared statement, Mr. Chairman, on the major issues presented by the proposed provisions of S. 2250. We would be happy to respond to your questions.

Senator MURKOWSKI. Thank you, Mr. Dodge.

I think that you have covered most of the concerns. It is my intent to introduce an amendment to cover insurance.

Mr. DODGE. Excellent.

Senator MURKOWSKI. I have no further questions.

Mr. DODGE. Thank you.

Senator MURKOWSKI. In order to expedite the time frame that we are working under, I would like to ask Dr. Nolan Jones and Mr. Robert S. Wilkerson if they would come up to the witness stand together and present their testimony in a panel.

STATEMENTS OF DR. NOLAN JONES, STAFF DIRECTOR, COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC PROTECTION, NATIONAL GOVERNORS ASSOCIATION, WASHINGTON, D.C., AND ROBERT S. WILKERSON, FLORIDA BUREAU OF DISASTER PREPAREDNESS, TALLAHASSEE, FLA., ON BEHALF OF THE NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

Senator MURKOWSKI. Dr. Jones is the staff director for the Committee on Criminal Justice and Public Protection for the National Governors Association.

Mr. Robert S. Wilkerson is from the Florida Bureau of Disaster Preparedness at Tallahassee, speaking on behalf of the National Emergency Management Association.

I have your written testimony, gentlemen. I would acknowledge that it will be submitted to be included in the record as presented to the Chair. I would ask you to please highlight your testimony and ask, I guess, Mr. Jones, to proceed first.

Mr. JONES. Thank you, Senator. I will be very brief and summarize my statement. The entire statement is submitted for the record.

Senator MURKOWSKI. Without objection.

Mr. JONES. First of all, I just want to make a few points. As you know, NGA has a strong commitment to the entire FEMA program. We encouraged the President and Congress to establish FEMA and have worked with it quite extensively. It is one of those programs that the Governors have consistently supported. Therefore, certain parts of the act we strongly endorse. Some of the questions that we basically were raising, have been cleared up today. Others still raise further questions for me and, I am sure, for others.

Mr. Wilkerson will address the technical parts of this bill.

We strongly endorse the increases in the Federal share of improvement grants which will permit the State and local governments to undertake a more extensive, meaningful preparedness and mitigation program. That is the match funds that was raised from the \$25,000 to \$50,000.

As you know, that sum is matched dollar for dollar by the States. Some put additional money into this section in terms of developing their programs and plans.

You probably note, too, that I attached several letters onto my statement which I received from Governors and emergency managers throughout the different States. Many of them said that this particular section will help them prepare comprehensive emergency plans by allowing them to add other planners onto their staff. Therefore, this is a very crucial part.

Some other sections of the act raise particular questions. The particular section which I want to point out is section 316. Here the Attorney General is authorized to institute action in the U.S. district courts against the particular party contributing to the declared disaster or emergency.

We think this section should be very clear about whether the congressional intent is to bring action against a governmental district that may have failed to mitigate a known hazard. We should know whether the Attorney General will be bringing suits against local governments in that instance.

The next issue is catastrophic disasters and multiple disasters. As it is written in the act, the President will be able to lend or advance the 25-percent share of the cost to localities and States.

NGA is a strong supporter of cost sharing. We believe that cost-sharing should be part of the bill.

The problem, then, comes in defining what is "cost sharing." As you know, we support cost sharing of all the costs of the disaster from inception. As it now stands, some perceptions are that States only pay 25 percent. States pay much more. At the inception of a particular disaster, the State is paying certain costs. At the time of the Presidential declaration, a State has committed a great amount of resources to emergency or disaster assistance. That is what Mr. Thomas was referring to, in terms of the commitment that began the whole process of what is an eligible or an ineligible cost. So there needs to be some clarification on that issue.

Now a word about the catastrophic disasters. What if a local or State government has multiple disasters in 1 or 2 years? There is no forgiveness clause of the 25-percent loan. This could actually bankrupt a local government or even a State, especially given these difficult budget times in State government.

So we think that that section should have more clarity and understanding in handling these catastrophic and multiple disasters for State and local government.

Finally, we would like to raise one other question in terms, specifically, of what is meant by "net eligible cost." I think some clarity should be given to that concept.

We note that many of these questions will perhaps be answered in regulations, but in terms of these types of definitions we need to get some clarity within the legislation so that we won't have major arguments about the intent of Congress as we have had in the past with the FEMA officials in terms of determining net eligible costs, determining commitment. There must be some clarity within the legislation.

Thank you.

Senator MURKOWSKI. Do you have some specific suggestion on how to clarify so we don't have these disputes without total acquiescence to the benefit of the State?

Mr. JONES. I don't think it is in terms of the total acquiescence to the benefit of the State. But one of the things that can be said is maybe let's look at all costs from the inception of the disaster in determining the 25-percent share, and then you will see a complete difference.

Senator MURKOWSKI. It will be higher for the Federal Government.

Mr. JONES. I think it will be perhaps higher for the States in terms of the amount of the money the States put in.

Senator MURKOWSKI. The way I read your testimony, it would infer that the responsibility for the share of the costs of declared disasters or emergencies should calculate from the time of onset, not from the time of the declaration.

I would assume, by that statement, there would be more Federal participation.

Mr. JONES. Perhaps yes, in those terms. But also you must look at it from the legislation; you are talking about declared disasters. There are numerous disasters in the States continually throughout the year, that are paid for at the State and local levels.

Senator MURKOWSKI. In your testimony, you indicate that you supported the increase from \$25,000 to \$50,000?

Mr. JONES. Yes.

Senator MURKOWSKI. How do you feel that flies in lieu of the reduction in all of the rest of the Federal programs?

Mr. JONES. I think that first, it is a match. In certain instances, the States are paying more. You have to look at it on a State-by-State basis. There are some States that are in deep financial trouble, and others are not. I think what we are trying to do is to make this program more equitable in terms of getting more States participating.

Senator MURKOWSKI. Do you think in the State of Washington, with the Mount St. Helens disaster, that there was a relevance to an additional amount of funding being available for the States to match to enhance their disaster planning?

Mr. JONES. I can't relate to that specifically in those terms, because I don't know that particular office. I do have some idea about some State offices. One in particular that I visited was very sophisticated with money they have been using in planning and mitigating disasters. They were able to evacuate a complete town, a township, I am sorry, with very little life lost in that particular situation.

These are the kinds of things that we are talking about in terms of mitigating and in terms of being prepared to handle certain types of disasters and saving lives.

Senator MURKOWSKI. Thank you, Dr. Jones.

Mr. Wilkerson?

STATEMENT OF ROBERT WILKERSON

Mr. WILKERSON. Thank you, Senator.

It is a pleasure to be here speaking on this subject again this year. I would like to briefly summarize my written testimony with the promise of substantial increase in testimony on some of the particular questions you have asked today within the next 10 days.

Essentially, our feelings about the proposed legislation can be broken down into three particular areas. On a positive side, we strongly endorse the clarification of the emergency declarations. There have been some misunderstanding we have had before.

The changes in the audit procedures for small projects is particularly beneficial in terms of removing the administrative burden problem involved in some of these projects. I would be very interested in seeing the GAO's recommendations on further improvement.

The increases in the improvements authorization, speaking from a Florida standpoint, Senator, and I, I think, from the National Management Association as a whole, there is no question an increase in that founding would be particularly helpful.

I would point out the increase and the change in the wording does not provide simply for an increase from \$25,000 to \$50,000, but also broadens the responsibility under that grant to provide for a mitigation plan which is directly intended to reduce future liability, to include Federal, State and local governments liability in disaster.

The individual unemployment assistance provision, I think, is particularly noteworthy. It is a management response to problems we have encountered and changes that have taken place in the general disaster and unemployment administration.

On the negative side, the basic issue still remains with cost sharing. I would point out, as Dr. Jones has, that we strongly endorse cost sharing. We have for some time asked for a clarification of the substantial commitment issue and would endorse even a fixed percentage, and find no particular objection with the 75-25 issue. We would ask that Congress carefully consider that the 75-25, as proposed, is not 75-25. In fact, it is a substantially greater burden on State and local government. That may well be appropriate as responsibilities shift back to State and local governments.

However, we would ask in the legislation drafting that there be clarity in what percentage is assumable and, Dr. Jones has submitted, that it include all disaster costs so that we are clearly reflecting what disasters are costing the taxpayers of this country and what portions are being borne by the various levels of government.

Clearly, 75-25 of net eligible cost is not a 75-25 split of the total cost of the disaster.

In fact, it approaches more a 40-60 split, on the average, between State and local governments, and as a State representative, I have to encourage you that it encourages a much heavier burden on local governments who have their tax bases fixed by State legislatures and are unable to respond on a short-term basis to these needs.

We deal with the eligible question and how to define that. This current legislation as proposed leaves us to some degree at the mercy of changes in administrative rules. I would encourage the committee as an oversight to the committee to include in the legislation a requirement that FEMA report back to the committee within a set period of time on recommendations for changes in eligibility so as to clearly share the responsibility for disaster deferences among the various parties involved.

Beyond the ineligible costs, this grant legislation again adds to the ineligible costs which are not minority when they include such costs as administration of the disaster assistance; the cost of hazard mitigation which, in my State, has become phenomenal.

It is certainly a cheaper bargain on a long-term basis, but the immediate capital outlay is substantial in many cases, resulting in an increase of as much as 30 percent in the repair costs of any individual structure.

We now have added to the question of code compliance. I believe you heard some testimony here today. The basic issue, Senator, is this: That the Government affected is faced with a requirement to restore that level of service that that building or that facility provided.

I would submit to you that it comes into play much more so in roads and bridges than it does in individual buildings and building codes and heating codes.

Therefore, they have to meet new codes in order to maintain consistency of regulation. That cost can be substantial, also. I believe when you get the particular testimony from the Federal Emergency Management Agency, you will find that it involves, in public assistance, somewhere in the range of 20 to 40 percent, depending upon the type of structure or facility involved.

I would point out, on the question of flexible funding permitted, that nowhere, to my knowledge, in 6 years in this business, has the Federal Government paid a State or a local government for a facility that was not to be rebuilt in any form.

Flexible funding was provided when that structure was to be rebuilt as a composite structure with other facilities, not simply as a windfall profit from the disaster to the State and local government.

I am certainly sure that that has not occurred in Florida. I believe other people in the room can testify it has not occurred in Kentucky. I do not believe honestly, Senator, it has occurred anywhere in this country. Three-part recovery is another serious aspect, not because of the stipulation in the draft, but more so because of the possibilities.

Recently we have seen action against governmental entities for failure to mitigate disasters under the flood insurance program. While we feel that there needs to be some inducement for governments to do so, we believe that the courts are incorrectly approaching this.

If the intent of this legislation is to seek restitution from third-party private types, then we would endorse it. However, I am not sure that I understand how that would have occurred in a natural disaster. Since it makes reference to major disasters and the bill redefines major disasters as natural, then we question the validity of this particular amendment.

Certainly, we feel somewhat threatened by it. There are certain manageability questions that are also raised in this issue. The rigidity of the Federal response mechanism, the lack of forgiveness. If, for example, I am faced with a certain—I was last week where a local jurisdiction has suffered five substantial disasters locally to the point that their local budget has been affected as much in one budget cycle as 15 percent.

If a State in each of those is provided certain emergency assistance in terms of resources, if I, next week, am faced with a major disaster, and they are expected to now provide 25 percent flat, either through a loan or direct up-front money, I submit, Senator, that financially that is an impossibility. That is not the norm. It does not occur every time.

Senator MURKOWSKI. What is the likelihood of that happening in the past?

Mr. WILKERSON. I think in a number of States, the most hazard-prone States, the States relying upon this legislation, it happens quite often. I think three of the last five disasters we have had in our State, each of those jurisdictions have suffered substantial losses in the last one or two budget cycles from other emergency situations.

Senator MURKOWSKI. What has been the case, the Governor for giving 100 percent?

Mr. WILKERSON. In this case, we spent 100 percent in terms of the eligible cost. They had been expedited to meet the other costs.

Senator MURKOWSKI. What do you suggest we might do to take into consideration this possibility where there would be mutual disasters yet still provide a safeguard for a State in the cases where there is not a repeat situation participating?

Mr. WILKERSON. I would suggest, Senator, that wording can be provided. We certainly would be happy to provide some grounds. We would provide that in the normal situation, the State or local jurisdiction provide 25 percent, but authorize the President to, based on information provided by the State and reviewed by FEMA, to modify that to a less than 25 percent level if they show an ability to meet that.

If we are going to require the local government in turn, to certify it is beyond their capability, it seems to me to be the antithesis to ask them to provide 25 percent.

We are asking them to certify to a falsehood.

The insurance issue you raised today, Senator, I think is a very valid one. I faced that last week personally with two local jurisdictions, one of which was insured and one of which was not. We are asking for clarity in the 75-25 issue and, if possible, a gradual phase in of that policy.

Certainly, in the insurance area, I think there is a direct benefit, not only to the Federal Government to reduce its liability, but to the local government to reduce its liability in nondeclared disasters, to move toward self-insurance.

In fact, Governor Graham suggested that type of self-insurance program not only for the local jurisdictions, but for the State in testimony before your House counterpart committee last year.

We do encourage that. However, the realities of the situation are that we would suggest it be done over a period of time, and that it recognize some of the shortfalls of the current flood insurance program's implementation as well.

Senator, we will be happy, in fact, more than glad, to provide you with substantial particular information as to the impact of 75-25 and the realities of the cost-sharing mechanism that has, for some time, been in place in the hope that the committee will seek a clear definition of the cost-sharing mechanism.

Senator MURKOWSKI. Thank you, Mr. Wilkerson.

With regard to natural and unnatural disasters, do you have a position?

Mr. WILKERSON. Yes, Senator. I think we discussed this last year. In fact, we discussed the cheapest situation, in particular. We suggested, prior to the declaration of the Cuban situation, that Public Law 93-288 was, at best, a marginal mechanism for responding to what is clearly unnatural.

We have strongly supported throughout the testimony that has been heard in the last 18 months that a disaster is a set of symptoms and the cause becomes questionable. We certainly understand the committee's desire to restrict the utilization of Public Law 93-288 to natural disasters, and we would observe with some interest the proposal to establish a refugee emergency program and a low enforcement emergency program under separate agencies in separate committees.

We do have to raise the issue that this will require, now, three bureaucracies, three sets of staffs, to administer one emergency situation or one set of criteria for an emergency situation and would propose to you that you might accomplish the same thing by taking a less restrictive definition of major emergency and including your congressional oversight measures to assure congressional participation.

Senator MURKOWSKI. Having had experience in the area, we would appreciate, I think, your recommendations in that regard.

Mr. WILKERSON. Certainly, Senator. We will provide some wording of that type. We certainly enjoyed the sensitivity to the question of the impact of social and refugee questions. What we are advocating as to organization, speaking specifically for the National Emergency Management Association, is a sound management policy toward emergencies, whatever their source; that I believe you will find, in particular, in the Cuban situation, that the difference under this proposed draft and what occurred would be the question of repayment of State and local governments for the cost that they incurred.

I certainly hope that the refugee situation was a unique circumstance and not one that will either present itself to Public Law 93-288, the State of Florida, or the United States at any time in the near future.

Senator MURKOWSKI. Thank you very much for your testimony, Mr. Wilkerson.

Thank you, Dr. Jones.

The record will be open for Senator Randolph to submit questions in writing. He regrets that he was unavoidably absent because of floor action.

The record will remain open for a 10-day period.

I would like to thank, on behalf of the rest of the subcommittee, you, and the chairman, Chairman Stafford, for the excellent testimony and assisting us to establish a record.

I think it is most relevant. We would appreciate your recommendations and considerations on points that were specifically brought up and any others that you would care to submit.

Mr. JONES. Thank you.

Senator MURKOWSKI. The hearing is adjourned. We wish you a good day.

[Whereupon, at 4:15 p.m., the subcommittee recessed, to reconvene at the call of the Chair.]

[Statements submitted for the record, and the bill, S. 2250, follow:]

STATEMENT BY LEE M. THOMAS
ASSOCIATE DIRECTOR
FEDERAL EMERGENCY MANAGEMENT AGENCY
BEFORE THE
SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
APRIL 20, 1982

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM PLEASED TO APPEAR BEFORE YOU TODAY AND TO HAVE THIS OPPORTUNITY TO DISCUSS WITH YOU S. 2250, "DISASTER RELIEF ACT AMENDMENTS OF 1982". I AM HERE TO EXPRESS THE VIEWS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), WHERE I AM THE ASSOCIATE DIRECTOR FOR STATE AND LOCAL PROGRAMS AND SUPPORT, THE ORGANIZATIONAL UNIT OF FEMA RESPONSIBLE FOR THE MANAGEMENT AND POLICY DIRECTION FOR FEDERAL DISASTER RELIEF AUTHORIZED BY THE DISASTER RELIEF ACT OF 1974.

ALLOW ME TO START, MR. CHAIRMAN, BY CONGRATULATING YOU AND YOUR STAFF ON YOUR SUCCESSFUL EFFORTS TO PRODUCE A SENSIBLE, COMPREHENSIVE BILL WHICH WOULD MAKE MANY IMPROVEMENTS IN DISASTER RELIEF AUTHORITIES. S. 2250 CLEARLY REFLECTS A LARGE COMMITMENT OF TIME TO THE GOALS OF REFINING AND IMPROVING A PROGRAM WHOSE HISTORY EXTENDS OVER THIRTY YEARS.

THE BILL INCORPORATES MOST OF THE LEGISLATIVE PROPOSALS WHICH FEMA FORWARDED TO THE PRESIDENT OF THE SENATE LAST YEAR. IT WOULD ALSO MAKE SEVERAL CHANGES TO ADDRESS CONCERNS WHICH THE COMMITTEE HAS ABOUT THE DISASTER RELIEF PROGRAM.

WITH YOUR PERMISSION, I WOULD LIKE TO NOW DISCUSS WHAT I FEEL ARE THE MOST IMPORTANT FEATURES OF S. 2250.

FIRST, I WOULD LIKE TO COMMENT ON DISASTER PUBLIC ASSISTANCE. BY THIS I MEAN THE ASSISTANCE, USUALLY FINANCIAL, PROVIDED BY FEMA TO STATE AND LOCAL GOVERNMENTS AND CERTAIN PRIVATE NONPROFIT ORGANIZATIONS. THE THREE MAJOR COMPONENTS OF PUBLIC ASSISTANCE ARE (1) EMERGENCY WORK TO SAVE LIVES AND PROTECT PROPERTY, PUBLIC HEALTH AND SAFETY; (2) DEBRIS REMOVAL; AND (3) THE PERMANENT RESTORATION OF PUBLIC FACILITIES DAMAGED OR DESTROYED BY A MAJOR DISASTER.

MOST OF THE CHANGES IN THIS AREA WOULD BE MADE BY SECTION 14 OF THE BILL. SECTION 14 INCORPORATES FEMA'S SINGLE MOST IMPORTANT LEGISLATIVE INITIATIVE, THE REQUIREMENT THAT STATE AND LOCAL GOVERNMENTS SHARE THE COST OF PERMANENT RESTORATIVE WORK AND DEBRIS REMOVAL AT THE RATE OF 75% FEDERAL, 25% STATE AND LOCAL. THIS CHANGE IN THE STATUTE WOULD ASSURE THE SUPPLEMENTAL NATURE OF THE FEDERAL AID UNDER THE PUBLIC ASSISTANCE AUTHORITIES. THE EXISTING LEGISLATION REQUIRES A GOVERNOR, AS A CONDITION OF ASSISTANCE

UNDER THE ACT, TO CERTIFY THAT THE TOTAL OBLIGATIONS AND EXPENDITURES OF BOTH STATE AND LOCAL GOVERNMENTS FOR A MAJOR DISASTER CONSTITUTE A REASONABLE COMMITMENT. THIS COMMITMENT HAS ALWAYS BEEN DIFFICULT TO ASCERTAIN. REQUIRING 75-25% COST-SHARING BY STATUTE WOULD ASSURE THAT A REASONABLE COMMITMENT WOULD BE MADE BY STATE AND LOCAL GOVERNMENTS WITH REGARD TO PUBLIC ASSISTANCE. WITH THE GRANTEE COST-SHARING IN PERMANENT RESTORATIVE WORK, WE ANTICIPATE TIGHTER FINANCIAL CONTROLS OVER PLANNING AND CONSTRUCTION AND OTHER WAYS OF REDUCING LONG-TERM COSTS RELATED TO DISASTER PROJECTS. WE ALSO ANTICIPATE THAT STATE AND LOCAL GOVERNMENTS WILL BE MORE PRUDENT IN THEIR ASSESSMENTS OF NEEDS FOR DEBRIS REMOVAL AND PERMANENT RESTORATIVE WORK. SAVINGS DUE TO 75-25% COST-SHARING FOR PUBLIC ASSISTANCE ARE ESTIMATED AT AN AVERAGE OF \$50 MILLION PER ANNUM. WE HAVE INCORPORATED THESE SAVINGS INTO THE ADMINISTRATION'S BUDGET FOR FY 1983.

WHILE FEMA RECOMMENDED THE INCLUSION OF A NEW SECTION TO THE LAW RELATED TO 75-25% COST-SHARING, THE ESSENCE OF THAT PROPOSAL WAS INCORPORATED INTO SECTION 14. WE, THEREFORE, STRONGLY SUPPORT THE ENACTMENT OF THIS FEATURE OF THE BILL.

A SECOND IMPORTANT LEGISLATIVE INITIATIVE BY FEMA RELATING TO PUBLIC ASSISTANCE URGED AN EXPANSION OF THE CURRENT SECTION 419, SMALL PROJECT GRANTS. WE BELIEVE THAT THIS SECTION PROVIDES A TESTED AND TIME-SAVING METHOD

OF REDUCING THE BURDEN OF ADMINISTRATIVE COSTS AND DELAYS FOR SMALL PROJECTS. THE SECTION CURRENTLY PERMITS FEMA TO MAKE FULL GRANT PAYMENTS BASED ON THE ESTIMATED COST OF REPAIRING DISASTER DAMAGE TO PUBLIC FACILITIES. EXCEPT ON A SPOT-CHECK BASIS, OR UPON RECEIPT OF EVIDENCE OF GROSS ERRORS OR FRAUD, THERE IS NO REQUIREMENT TO PERFORM DETAILED AUDITS OR FINAL INSPECTIONS OF THE WORK COMPLETED. THE SUCCESS OF THE EXISTING SMALL PROJECT GRANT MECHANISM LED FEMA TO PROPOSE THAT THE CURRENT LIMITATION ON THE APPLICABILITY OF SECTION 419, \$25,000 FOR THE CUMULATIVE ESTIMATED COSTS FOR ALL PROJECTS BELONGING TO A PARTICULAR APPLICANT, BE CHANGED TO \$25,000 FOR EACH INDIVIDUAL PROJECT. BASED ON OUR MOST RECENT COMPUTER ANALYSIS, WE ANTICIPATE THAT APPROXIMATELY 90% OF ALL PROJECTS PROCESSED, REPRESENTING LESS THAN 10% OF ALL FUNDS EXPENDED, COULD BE INCLUDED UNDER THE NEW SMALL PROJECT GRANT MECHANISM AS A RESULT OF THIS CHANGE. THE PROPOSED CHANGE WOULD GAIN THE ADVANTAGES OF MANAGEMENT BY EXCEPTION WITH GREATLY REDUCED ADMINISTRATIVE COSTS AND DELAYS.

SECTION 14 INCORPORATES THE ESSENCE OF FEMA'S PROPOSAL IN A VERY SIMPLE WAY. CONTRIBUTIONS FOR PERMANENT RESTORATIVE WORK WOULD BE LIMITED TO 75% OF THE NET ELIGIBLE COSTS OR "FOR SMALL PROJECTS [75% OF] THE FEDERAL ESTIMATE OF THE NET ELIGIBLE COST" OF REPAIRS OR RESTORATION. THE QUOTED PORTION

PERMITS FEMA TO MAKE A GRANT BASED ON THE ESTIMATE, RATHER THAN HAVING TO RESORT TO INSPECTIONS AND AUDITS TO DETERMINE THE ACTUAL COSTS OF RESTORATION. THE CHANGE ALSO PERMITS FEMA TO ESTABLISH, BY REGULATION, THE CEILING AMOUNT FOR PROJECTS TO WHICH THIS EXPEDITED PROCEDURE MAY BE APPLIED. WE ANTICIPATE THAT THE CEILING WOULD BE ESTABLISHED AT \$25,000 PER PROJECT. THE SECTION ALSO, AS WE PROPOSED, DELETES ANY PROVISION FOR EXPENDING THE SMALL PROJECT GRANTS ON ANYTHING BUT THE RESTORING OR REPLACING OF THE DAMAGED OR DESTROYED PUBLIC FACILITY ON WHICH THE GRANT WAS BASED. SECTION 14(c) MAKES PROVISION FOR THE SAME PROJECT GRANT MECHANISM FOR DEBRIS REMOVAL ASSISTANCE AND SIMILAR PROVISIONS ARE MADE FOR EMERGENCY WORK IN A MAJOR DISASTER BY SECTION 13. FEMA STRONGLY SUPPORTS THESE FEATURES OF THE BILL.

WE DO NOT, HOWEVER, AGREE WITH ALL OF SECTION 14 AS IT CURRENTLY READS. THE SECTION WOULD ALSO CHANGE THE CURRENT PRACTICE OF REIMBURSING DISASTER PUBLIC ASSISTANCE APPLICANTS FOR THE COSTS OF COMPLYING WITH APPLICABLE CODES, SPECIFICATION AND STANDARDS. WE STRONGLY OBJECT TO THIS CHANGE BECAUSE IT WOULD SUBSTANTIALLY REDUCE THE GRANTS TO STATE AND LOCAL GOVERNMENTS, ESPECIALLY THOSE FOR REPAIR OR REPLACEMENT OF OLDER PUBLIC FACILITIES. THIS REDUCTION WOULD BE ON TOP OF THE 25% STATE AND LOCAL SHARE WHICH IS ALSO ALREADY INCLUDED IN

SECTION 14. SECOND, THE CHANGE WOULD SUBSTANTIALLY COMPLICATE THE MECHANISM FOR ESTABLISHING THE GRANT AMOUNT. CURRENTLY, REPAIR OR REPLACEMENT COSTS ARE ESTIMATED ON THE BASIS OF MODERN CONSTRUCTION PRACTICES USING FUNCTIONAL MATERIALS AND EQUIPMENT. IT WOULD BE VERY DIFFICULT TO ELIMINATE THE COSTS ATTRIBUTABLE TO CERTAIN CODES, SPECIFICATIONS AND STANDARDS MADE APPLICABLE SINCE THE FACILITY WAS ORIGINALLY CONSTRUCTED, PARTICULARLY WHERE UNIT PRICES COMPILED FROM ANALYSIS OF RECENT CONTRACTS ARE USED FOR CERTAIN TYPES OF WORK. THIRD, AS A PRACTICAL MATTER, FEMA'S ABILITY TO ENCOURAGE APPLICANT EXPENDITURES FOR HAZARD MITIGATION AND OTHER PRUDENT MEASURES, IN CONNECTION WITH THE REPAIR AND RESTORATION OF BUILDINGS OR FACILITIES, WOULD BE SUBSTANTIALLY REDUCED IN THE ABSENCE OF FEMA AUTHORITY TO FUND APPLICABLE CODES, SPECIFICATIONS AND STANDARDS ON A 75-25% COST-SHARING BASIS. ALONG THESE LINES, THE COMMITTEE MAY WISH TO CONSIDER THE INCLUSION OF ALTERNATE OR ADDITIONAL STATUTORY AUTHORITIES TO FUND OTHER POST-DISASTER HAZARD MITIGATION MEASURES AND DISASTER PLANNING. SUCH FUNDING SHOULD RESULT IN A LONG-TERM SAVINGS TO THE FEDERAL GOVERNMENT AS WELL AS TO STATE AND LOCAL GOVERNMENTS. WITHOUT THE NECESSARY FUNDING IMPORTANT HAZARD MITIGATION MEASURES MAY NOT BE TAKEN, AND THE FEDERAL GOVERNMENT MAY HAVE TO EXERCISE THE "NO ACTION" ALTERNATIVE AND TO DENY GRANT FUNDING FOR REPETITIVE LOSSES TO THE SAME FACILITIES.

OUR SECOND MAJOR OBJECTION TO SECTION 14 IS TO ITS RETENTION OF EXISTING SECTION 402(F), THE FLEXIBLE FUNDING PROVISION. UNDER THE RENUMBERED 405(E), AN APPLICANT COULD CUMULATE THE ESTIMATED COST OF REPAIRING OR REPLACING ALL OF ITS DAMAGED PUBLIC FACILITIES, REQUEST A GRANT OF 67% OF THAT TOTAL (90% OF 75%), AND THEN EXPEND THE GRANT FOR THE RESTORATION OF SELECTED FACILITIES OR THE CONSTRUCTION OF NEW PUBLIC FACILITIES IN THE DISASTER AREA. WE STRONGLY OPPOSE THE RETENTION OF THIS AUTHORITY BECAUSE WE BELIEVE THAT IF A PARTICULAR FACILITY NEED NOT BE REPAIRED OR REBUILT, THE FEDERAL GOVERNMENT SHOULD NOT BE PROVIDING ANY GRANT FUNDS. THE FLEXIBLE FUNDING FEATURE STANDS AT ODDS WITH ONE OF THE CENTRAL GOALS OF THE DISASTER RELIEF LEGISLATION, NAMELY, TO HELP PUT A COMMUNITY BACK ON ITS FEET BY RESTORING ITS PREDISASTER PUBLIC FACILITIES. IF CERTAIN FACILITIES NEED NOT BE RESTORED TO PROVIDE ESSENTIAL PUBLIC SERVICES, THEN FEDERAL DISASTER FUNDS SHOULD NOT BE USED.

S. 2250 WOULD MAKE A NUMBER OF OTHER CHANGES. AMONG THE MOST SIGNIFICANT ARE THOSE RELATED TO THE DISASTER TEMPORARY HOUSING PROGRAM. FEMA MADE A NUMBER OF LEGISLATIVE PROPOSALS, ALL OF WHICH WERE INCORPORATED INTO THE BILL IN SECTION 15. THESE INCLUDE THE ELIMINATION OF THE AUTOMATIC ONE-YEAR RENT-FREE PERIOD FOR PROVIDING TEMPORARY HOUSING. TEMPORARY HOUSING

WOULD ONLY BE PROVIDED WHEN ADEQUATE ALTERNATIVE HOUSING IS UNAVAILABLE; THIS DETERMINATION CONSIDERS THE FINANCIAL MEANS OF THE APPLICANT FOLLOWING THE DISASTER. THE FEDERAL GOVERNMENT WOULD PAY ONLY THAT AMOUNT OVER AND ABOVE THE PRE-DISASTER HOUSING COSTS, WHICH WAS MADE NECESSARY BY THE EXPENSES FOR TEMPORARY HOUSING. ANTICIPATED SAVINGS WITH THIS LEGISLATIVE CHANGE ARE CONSERVATIVELY ESTIMATED AT \$1 MILLION PER ANNUM. THE LEGISLATIVE CHANGE WOULD ALSO PROVIDE FOR STATE AND LOCAL GOVERNMENT ADMINISTRATION OF THE TEMPORARY HOUSING PROGRAM WHEN THE CAPABILITY EXISTS, AND WOULD LIMIT FEDERAL FINANCIAL AND OPERATIONAL RESPONSIBILITY FOR THE TEMPORARY HOUSING PROGRAM TO 18 MONTHS FROM THE DATE OF THE DECLARATION. FEMA STRONGLY SUPPORTS THESE CHANGES WHICH WOULD BE MADE BY SECTION 15.

THE BILL WOULD ALSO PROVIDE THE ATTORNEY GENERAL WITH AUTHORITY TO BRING SUIT TO RECOVER DISASTER RELIEF EXPENDITURES FROM PARTIES WHICH CAUSED MAJOR DISASTERS OR EMERGENCIES OR CONTRIBUTED TO THE EFFECTS OF SUCH CATASTROPHES. SECTION 12 WOULD ADD NEW SECTION 316 TO CLARIFY THE AUTHORITY OF THE UNITED STATES TO INSTITUTE SUCH ACTIONS. THIS MEASURE WAS SUGGESTED BY FEMA AND WE CONTINUE TO SUPPORT IT.

THE BILL WOULD ALSO MAKE A SIGNIFICANT CHANGE IN THE DEFINITION OF "MAJOR DISASTER". THE PRESIDENTIAL DECLARATIONS

FOR THE CUBAN INFLUX EMERGENCY AND, TO A LESSER EXTENT, THE LOVE CANAL EMERGENCIES HAVE CAUSED CONSIDERABLE CONCERN ON THE PART OF MEMBERS OF CONGRESS ABOUT THE CORRECT INTERPRETATION OF THE ACT AND ITS APPLICABILITY TO NON-NATURAL CATASTROPHES. WE UNDERSTAND THAT THE MEMBERS OF CONGRESS OBJECT TO THE USE OF DISASTER ASSISTANCE AUTHORITIES TO RESPOND TO NON-NATURAL EVENTS. THE EFFECT OF THE ENACTMENT OF SECTION 5, NEITHER PART OF WHICH WAS INCLUDED IN FEMA'S FORMAL LEGISLATIVE PROPOSALS, WOULD BE TO CLARIFY CONGRESSIONAL INTENT ABOUT THE TYPE OF INCIDENTS WHICH THE PRESIDENT MAY DECLARE A "MAJOR DISASTER". SECTION 5 WOULD AMEND THE DEFINITION OF "MAJOR DISASTER" IN TWO RESPECTS. THE CURRENT DEFINITION DEFINES THE TERM TO MEAN ANY OF A NUMBER OF SPECIFICALLY LISTED EVENTS OR "OTHER CATASTROPHE" WHICH MEET THE STATUTORY REQUIREMENTS FOR DECLARATION. SECTION 5 WOULD ADD "NATURAL" BETWEEN "OTHER" AND "CATASTROPHE." THE SECTION WOULD ALSO DELETE FROM THE DEFINITION THE PHRASE "ABOVE AND BEYOND EMERGENCY SERVICES BY THE FEDERAL GOVERNMENT".

WE UNDERSTAND THAT THE SENATE COMMITTEE CONSIDERED A NUMBER OF ALTERNATIVE MECHANISMS FOR RESTRICTING THE DEFINITION OF "MAJOR DISASTER". FEMA AGREES THAT THE MECHANISM SELECTED IS THE SIMPLEST AND BEST ONE TO ACCOMPLISH THE COMMITTEE'S OBJECTIVE. FEMA DOES NOT OBJECT TO THE ENACTMENT OF SECTION 5 ASSUMING THAT WE ARE CORRECT IN THE FOLLOWING THREE POINTS.

FIRST, THE REDEFINITION OF "MAJOR DISASTER" WOULD PERMIT THE PRESIDENT TO DECLARE CATASTROPHES WHICH ARE EXPRESSLY LISTED IN THE DEFINITION AND, OF THOSE CATASTROPHES NOT EXPRESSLY IDENTIFIED, ONLY THOSE RESULTING FROM NATURAL CAUSES. AMONG THE EXPRESSLY LISTED INCIDENTS ARE FLOODS, FIRES AND EXPLOSIONS. AS WE INTERPRET THE AMENDED DEFINITION, THE PRESIDENT COULD DECLARE FLOODS, FIRES AND EXPLOSIONS WITHOUT THE NECESSITY TO DETERMINE WHETHER THE DAMAGE AND HARDSHIP RESULTED FROM NATURAL OR NON-NATURAL CAUSES. IN OTHER WORDS, THE PRESIDENT COULD DECLARE, WHETHER THEY RESULTED FROM NATURAL, NON-NATURAL OR UNDETERMINED CAUSES, FLOODS (E.G., TETON DAM FAILURE), FIRES (E.G., LYNN AND CHELSEA, MASSACHUSETTS, FIRES), AND EXPLOSIONS (E.G., LOUISVILLE SEWER EXPLOSIONS).

SECOND, DECLARATIONS OF "MAJOR DISASTERS" WHERE ONLY IMMEDIATE EMERGENCY ASSISTANCE IS REQUIRED WOULD BE PERMISSIBLE. THE CHANGE WHICH WOULD BE MADE BY SECTION 5(2) OF THE BILL WOULD CONFIRM THIS AUTHORITY. THE PRESIDENT WILL BE AUTHORIZED TO DECLARE A "MAJOR DISASTER" FOR WHICH ONLY LIMITED FORMS OF ASSISTANCE WOULD BE PROVIDED.

THIRD, THERE WOULD EXIST, UNDER THE ACT AS AMENDED, ADDITIONAL AUTHORITY FOR THE FEDERAL GOVERNMENT TO PROVIDE COORDINATED SUPPLEMENTAL ASSISTANCE FOR THE PURPOSES OF SAVING LIVES AND PROTECTING PROPERTY, PUBLIC HEALTH AND SAFETY FOR

A BROADER RANGE OF INCIDENTS, BOTH NATURAL AND NON-NATURAL. THIS NEEDED AUTHORITY WOULD BE PROVIDED, WITH SIGNIFICANT LIMITATIONS, BY THE REDEFINITION OF "EMERGENCY" AND THE INCLUSION OF A NEW TITLE V, "FEDERAL EMERGENCY ASSISTANCE PROGRAMS".

AN "EMERGENCY" WOULD BE REDEFINED TO MEAN "ANY OCCASION OR INSTANCE FOR WHICH, IN THE DETERMINATION OF THE PRESIDENT, FEDERAL ASSISTANCE IS NEEDED TO SUPPLEMENT STATE AND LOCAL EFFORTS AND CAPABILITIES TO SAVE LIVES AND TO PROTECT PROPERTY, PUBLIC HEALTH AND SAFETY OR TO LESSEN OR AVERT THE THREAT OF A CATASTROPHE IN ANY PART OF THE UNITED STATES." A DECLARATION OF "EMERGENCY" WOULD BE MADE BY THE PRESIDENT ON THE REQUEST OF THE GOVERNOR. THE GOVERNOR'S REQUEST WOULD HAVE TO BE SUPPORTED BY INFORMATION SIMILAR TO INFORMATION CURRENTLY REQUIRED FOR "MAJOR DISASTER" REQUESTS. HOWEVER, WE OPPOSE THE REQUIREMENT FOR THE GOVERNOR TO MAKE THE PROPOSED CERTIFICATION AND COMMITMENT ON THE GROUNDS THAT SUCH REQUIREMENTS CAN DELAY AND COMPLICATE THE PREPARATION AND PROCESSING OF SUCH REQUESTS AT A TIME WHEN PROMPT DECISION-MAKING IS ESSENTIAL. THE PROPOSED SECTION 5 REQUIRES A FINDING BY THE GOVERNOR THAT "EFFECTIVE RESPONSE IS BEYOND THE CAPABILITIES OF THE STATE AND THE AFFECTED LOCAL GOVERNMENTS...." THAT FINDING SHOULD BE SUFFICIENT TO SUPPORT AN "EMERGENCY" DECLARATION.

FOLLOWING A DECLARATION, THE PRESIDENT, AND BY DELEGATION, FEMA COULD USE THE AUTHORITIES OF THE NEW TITLE V TO ENSURE THE COORDINATED PROVISION OF EMERGENCY ASSISTANCE. HOWEVER, SUCH ASSISTANCE COULD BE PROVIDED ONLY IN ACCORDANCE WITH STRICT LIMITATIONS. FEMA COULD USE THE AUTHORITIES OF SECTION 502 TO (A) DIRECT OTHER FEDERAL AGENCIES TO PROVIDE EMERGENCY ASSISTANCE UNDER THEIR OWN AUTHORITIES AND WITHOUT REIMBURSEMENT FROM DISASTER RELIEF FUNDS; (B) COORDINATE FEDERAL AGENCY AND VOLUNTARY RELIEF ORGANIZATION ASSISTANCE AND COORDINATE WITH STATE AND LOCAL OFFICIALS; AND (C) PROVIDE TECHNICAL AND ADVISORY ASSISTANCE TO AFFECTED STATE AND LOCAL GOVERNMENTS. IN THE EVENT THAT THE ASSISTANCE PROVIDED UNDER SECTION 502 WERE INSUFFICIENT TO ADEQUATELY SUPPLEMENT THE EFFORTS AND RESOURCES OF STATE AND LOCAL GOVERNMENTS, THE PRESIDENT, AND BY DELEGATION, FEMA COULD PROVIDE EMERGENCY AND DEBRIS REMOVAL ASSISTANCE, BUT NOT GRANT ASSISTANCE FOR PERMANENT RESTORATIVE WORK. HOWEVER, NO FUNDS APPROPRIATED TO CARRY OUT THE ACT COULD BE EXPENDED ON SUCH EMERGENCY ASSISTANCE UNDER SECTION 503 WHERE OTHER FEDERAL ASSISTANCE IS AVAILABLE AND ADEQUATE IF SUCH ALTERNATIVE ASSISTANCE IS INADEQUATE, FEMA FUNDING FOR EMERGENCY ASSISTANCE IS LIMITED TO \$5 MILLION PER "EMERGENCY" UNDER SECTION 503(c), EXCEPT IN ACCORDANCE WITH SUBSECTION 503(d). SUBSECTION 503(d) PROVIDES THAT THE PRESIDENT MAY DETERMINE THAT ADDITIONAL EMERGENCY ASSISTANCE IS REQUIRED AND MAY

APPROVE CONTINUATION OF THAT ASSISTANCE. IF SUCH A DETERMINATION WERE MADE, THE PRESIDENT WOULD BE REQUIRED TO REPORT TO CONGRESS AND TO PROPOSE ADDITIONAL LEGISLATION, IF NECESSARY, TO COPE WITH THE SITUATION.

FEMA STRONGLY SUPPORTS THE ENACTMENT OF SECTION 4 IN PRINCIPLE. WHEN READ WITH THE AMENDED DEFINITION OF "EMERGENCY", SECTION 4 WOULD AUTHORIZE THE PRESIDENT TO RESPOND TO NATURAL AND NON-NATURAL CIVIL EMERGENCIES WHERE SUPPLEMENTAL EMERGENCY ASSISTANCE IS REQUIRED OR WHERE ASSISTANCE IS NEEDED TO LESSEN OR AVERT THE THREAT OF A CATASTROPHE. THIS AUTHORITY WOULD ESSENTIALLY PERMIT THE FEDERAL GOVERNMENT TO PROVIDE THE MOST NEEDED LIFE-SAVING AND PROPERTY-PROTECTING ASSISTANCE IN A BROAD RANGE OF INCIDENTS. THE ADMINISTRATION COULD THEN, IN A MORE DELIBERATE MANNER, DETERMINE WHETHER TO PROVIDE CONTINUING ASSISTANCE AND, IF SO, IDENTIFY THE PROPER AUTHORITY OR AUTHORITIES UNDER WHICH TO PROVIDE IT. FOR UNUSUAL TYPES OF CIVIL EMERGENCIES FOR WHICH ADEQUATE RESPONSE AUTHORITIES DO NOT NOW EXIST, THE ADMINISTRATION AND CONGRESS, AS A RESULT OF ENACTMENT OF THE NEW TITLE V, WOULD HAVE MORE TIME TO DESIGN AND ENACT LEGISLATION SPECIFICALLY TAILORED TO THE PROBLEM.

FEMA ALSO SUPPORTS AS REASONABLE THE LIMITATIONS WHICH WOULD BE IMPOSED BY SECTION 503. WHILE THE NEW DEFINITION OF "EMERGENCY" WOULD BROADEN THE RANGE OF INCIDENTS FOR WHICH

ASSISTANCE COULD BE PROVIDED, THESE AND THE OTHER LIMITATIONS WOULD ENSURE THE JUDICIOUS EXERCISE OF THESE AUTHORITIES.

THE NEW TITLE V WOULD CODIFY THE DIRECTOR'S CURRENT AUTHORITIES UNDER EXECUTIVE ORDER 12148 TO COORDINATE FEDERAL RESPONSES TO CIVIL EMERGENCIES. ASSUMING DELEGATION BY THE PRESIDENT OF THE RESPONSE AUTHORITIES (AS DISTINGUISHED FROM THE DECLARATION AUTHORITY), THE DIRECTOR SHOULD, AS A PRACTICAL MATTER, BE BETTER ABLE TO OBTAIN THE COOPERATION OF THE OTHER FEDERAL AGENCIES IN HIS MANAGEMENT AND COORDINATION OF THE OVERALL FEDERAL RESPONSE TO CIVIL EMERGENCIES.

THE COMBINED EFFECT OF THE CHANGES TO THE DEFINITIONS OF "MAJOR DISASTER" AND "EMERGENCY" WOULD BE TO ESTABLISH SEPARATE STATUTORY AUTHORITIES FOR DEALING WITH TWO DISTINCT TYPES OF SITUATIONS. TITLE III WOULD CONTAIN ADMINISTRATIVE PROVISIONS WHICH WOULD APPLY TO BOTH MAJOR DISASTERS AND EMERGENCIES. THE AMENDED TITLE IV WOULD AUTHORIZE A RANGE OF AUTHORITIES FOR THE FEDERAL GOVERNMENT TO PROVIDE ASSISTANCE AS A RESULT OF A "MAJOR DISASTER" TO SUPPLEMENT THE EFFORTS AND RESOURCES OF STATE AND LOCAL GOVERNMENTS IN RELIEVING DAMAGE, HARDSHIP AND SUFFERING FOLLOWING NATURAL CATASTROPHES (AS WELL AS FLOODS, FIRES, AND EXPLOSIONS OF NATURAL, NON-NATURAL OR UNDETERMINED CAUSES). THE NEW TITLE V WOULD AUTHORIZE THE FEDERAL GOVERNMENT TO PROVIDE LIMITED ASSISTANCE

TO COPE WITH A BROADER RANGE OF CIVIL EMERGENCIES. WE SUPPORT IN PRINCIPLE THIS RESTRUCTURING OF THE ACT.

THERE ARE MANY OTHER COMMENTS WE HAVE ON THIS BILL. WITH YOUR PERMISSION, MR. CHAIRMAN, I WOULD LIKE TO SUPPLEMENT THIS STATEMENT WITH A WRITTEN SUBMISSION COMMENTING IN MORE DETAIL ON S. 2250. MANY OF THESE COMMENTS STEM FROM OUR EXPERIENCE OVER THE LAST EIGHT YEARS WITH THE DISASTER RELIEF ACT OF 1974, PUB. L. 93-288. SOME COMMENTS WOULD SUGGEST EDITORIAL AND MINOR SUBSTANTIVE CHANGES THAT COULD BE CONSIDERED TO CLARIFY OR IMPROVE THE WORDING OF SOME OF THE PROVISIONS OF THE BILL. OTHER COMMENTS WOULD INDICATE THE NEED FOR CLARIFICATION OF CERTAIN POINTS IN COMMITTEE REPORTS OR OTHER STATEMENTS OF LEGISLATIVE INTENT.

THIS CONCLUDES MY STATEMENT. I WOULD BE HAPPY TO ANSWER ANY QUESTION YOU MAY HAVE.



Federal Emergency Management Agency

Washington, D.C. 20472

May 11, 1982

Honorable Frank H. Murkowski
Chairman
Subcommittee on Regional and
Community Development
Environmental and Public Works Committee
United States Senate
Washington, D.C. 20510

Dear Senator Murkowski:

Enclosed are the Federal Emergency Management Agency's (FEMA) comprehensive comments on S. 2250, the "Disaster Relief Act Amendments of 1982." At the hearing which you conducted on April 20, 1982, Mr. Thomas stated that we would be submitting these comments. We would be pleased if these comments were incorporated into the record of that hearing.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of these comments to the Committee.

Sincerely,

A handwritten signature in dark ink, appearing to read "George Jett", is written over the typed name.

George Jett
General Counsel

Enclosure

Sections 3 and 4

Title V of the Disaster Relief Act of 1974 (42 U.S.C. 5121, et seq., Pub. L. 93-288, as amended, "the Act") added a new Title VIII to the Public Works and Economic Development Act of 1965. Sec. 4 of S. 2250 would repeal Title VIII of that Act and amend Title V of the Disaster Relief Act of 1974 to add a new title, "Federal Emergency Assistance Programs." New Title V would be comprised of three sections: Sec. 501 dealing with emergency declaration procedures; sec. 502 dealing with the President's authority to direct other Federal agencies to do work under their own authority without reimbursement, coordination of disaster assistance and the provision of technical and advisory assistance; and sec. 503 dealing with the authority of the President (we anticipate that this would be delegated to the Federal Emergency Management Agency, "FEMA") to provide emergency assistance and the limitations placed on that authority. Sec. 3(a) would substantially change the definition of "emergency". Sec. 3(b) would add a new definition for "Director," i.e. the Director of FEMA.

Interpretation

The new Title V would provide an entirely separate set of authorities for use in a Presidentially-declared "emergency." Authorities available for use in a "major disaster" would be found exclusively in amended Title IV. While Title IV includes provisions for both emergency work and permanent restorative work, the authorities of Title V pertain exclusively to emergency work, i.e., assistance to save lives and protect property, public health and safety and to lessen or avert the threat of a disaster. New Title V must be read in conjunction with the entirely new definition of "emergency" made by sec. 3(a) of S. 2250.

An "emergency" declaration would be made by the President on the request of the Governor. The Governor's request would have to be supported by information similar to that currently required for "major disaster" requests. Following a declaration, the President (FEMA) could use the authority of sec. 502 to (a) direct other Federal agencies to provide emergency assistance under their own authorities and without reimbursement from funds appropriated to carry out the Disaster Relief Act; (b) coordinate Federal agency and voluntary relief organization assistance and coordinate with State and local officials; and (c) provide technical and advisory assistance to affected State and local governments. In the event that the assistance provided under sec. 502 is insufficient to adequately supplement the efforts and resources of State and local governments, the President (FEMA) could provide financial or direct emergency assistance under sec. 503(a). However, no funds appropriated to carry out the Act could be expended on such emergency assistance (except for direction, coordination and technical and advisory assistance under new sec. 502) where Federal assistance is available and adequate under other Federal authorities. If this emergency assistance is inadequate, funding would still be limited to \$5 million per emergency, except in accordance with subsection 503(d). Subsection 503(d) would provide that the President may determine that additional emergency assistance is required. If such a determination were made, the President (FEMA) would be able to continue to provide needed emergency assistance. The President would also have to report to Congress and to propose additional legislation, if necessary, to cope with the emergency situation.

Background

The language of new sec. 501 is largely drawn from current sec. 301(a) which relates to the declaration process for an "emergency" (current definition).

Extra requirements were modeled on current sec. 301(b) dealing with the declaration process for a "major disaster." The central principle of Federal disaster assistance, that it be supplemental to the efforts and resources of State and local governments, remains in both the revised definition of "emergency" and new sec. 501. New sec. 502(a) is adapted from current sec. 302(a); new sec. 502(b) is also similar to a portion of current sec. 302(a); and new sec. 502(c) largely incorporates current sec. 305(b).

FEMA Position

1. FEMA supports the enactment of Sections 3 and 4. When read with the amended definition of "emergency", sec. 4 would authorize the President to respond to natural and non-natural civil emergencies where supplemental emergency assistance is required or where assistance is needed to lessen or avert the threat of a catastrophe. This authority would essentially permit the Federal Government to provide the most needed life-saving and property protecting assistance in a broad range of incidents. The Administration could then, in a more deliberate manner, determine whether to provide continuing assistance and, if so, identify the proper authority or authorities under which to provide it. For unusual types of civil emergencies for which adequate response assistance do not exist, the Administration and Congress would have more time to design and enact legislation specifically tailored to the new problem.

FEMA also supports as reasonable the limitations which would be imposed by sec. 503. While the new definition of "emergency" would broaden the range of incidents for which assistance could be provided, these and the other limitations would ensure the judicious exercise of these authorities.

The new Title V would codify and expand on the Director's current authorities under Executive Order 12148 to coordinate Federal responses to civil emergencies. Assuming delegation by the President of the response authorities (as distinguished from the declaration authority), the Director should, as a practical matter, be better able to obtain the cooperation of the other Federal agencies in his management and coordination of the overall Federal response to civil emergencies.

2. FEMA opposes the requirement for the Governor to make the proposed certification "...that for the current emergency, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such emergency." This requirement could delay and complicate the preparation and processing of requests at a time when prompt decisionmaking is essential. Sec. 501 would already require that the Governor shall describe State and local efforts and will make a finding that the "effective response" is beyond the capabilities of the State and affected local governments. This information and finding should be sufficient. FEMA, therefore, supports the deletion of the fifth sentence ("He shall furnish information...") from sec. 501. This deletion would also remedy a redundancy in the section.

3. One form of emergency assistance "necessary to save lives, protect property, public health and safety" is temporary housing for those individuals and families who require it. We assume that, following a declaration of "emergency" by the President, FEMA would be authorized to provide temporary housing assistance in conformity with regulations and guidance applicable to major disaster temporary housing operations. This would allow the Agency

to take advantage of an existing program, rather than merely implementing an ad hoc operation based on the general emergency assistance authority. By way of example, advantages of this would be to allow FEMA to donate mobile homes no longer required in an "emergency" temporary housing operation to States, local governments and families and to provide mortgage and rental assistance. Confirmation of this assumption in legislative history would be useful.

4. FEMA also suggests that sec. 503(c) be clarified by adding, between "assistance" and "shall" the words "under this section." This change would obviate the need for FEMA to calculate the costs of performing its function under sec. 502 (direction, coordination, and technical and advisory assistance) for purposes of limiting the cost of emergency assistance to \$5 million. FEMA also suggests that Congress, by way of legislative history, confirm that sec. 503(a) would authorize FEMA to provide emergency assistance by grants to State and local governments or direct Federal assistance.

Sec. 5

Sec. 5 would amend sec. 102(2) of the Act by (1) adding the word "natural" between the words "other" and "catastrophe" in the definition of "major disaster" and (2) deleting from the same definition the phrase "above and beyond emergency services by the Federal Government."

Interpretation

Subsection 5(1) would limit those catastrophes for which a Presidential declaration of "major disaster" could be made to the events explicitly listed and those events currently included within the term "other catastrophe" which are naturally caused, i.e., not primarily caused by action of man. Subsection 5(2) would permit the President to declare as a "major disaster" a catastrophe which requires supplemental Federal disaster assistance only for emergency purposes, i.e., to save lives and protect property, public health and safety. Any declaration of a major disaster would continue to be contingent on the other preconditions required by the Act for a declaration.

Background

The Presidential declarations for the Cuban influx emergency and, to a lesser extent, the Love Canal emergencies have caused considerable concern on the part of members of Congress about the correct interpretation of the Act and its applicability to non-natural catastrophes. We understand that some members of Congress object to the use of the variety of disaster assistance authorities, which have been developed over the years to address natural disasters, to respond to non-natural events. The effect of the enactment of sec. 5, neither part of which was included in FEMA's formal legislative proposals, would be to clarify congressional intent about the type of incidents which the President may declare a "major disaster."

FEMA Position

We understand that the Senate Committee considered a number of alternative mechanisms for restricting the definition of "major disaster." These included the insertion of the words "natural or physical" in the definition; the express exclusion of "social or economic" events; and the express exclusion of particular non-natural events such as riots, toxic spills, influx of refugees, state and local budgetary deficiencies, etc. FEMA agrees that the mechanism selected is the simplest and best one to accomplish the Committee's objective. FEMA does not object to the enactment of sec. 5 assuming the following:

1. The correct interpretation of the definition of "major disaster" as amended would permit the President to declare catastrophes which are expressly listed in the definition and, of those catastrophes not expressly identified, only those resulting from natural causes. Among the expressly listed incidents are floods, fires and explosions. With this interpretation of the amended definition, the President could declare floods, fires and explosions without the necessity to determine whether the damage and hardship resulted from natural or non-natural causes. In other words, the President could declare, whether they resulted from natural, non-natural or undetermined causes, floods (e.g., Teton Dam failure), fires (e.g., Lynn and Chelsea, Massachusetts, fires), and explosions (e.g., Louisville sewer explosions).

2. There would exist, under the Act as amended, additional authority for the Federal Government to provide coordinated supplemental assistance for the purposes of saving lives and protecting property, public health and safety for a broader range of incidents, both natural and non-natural. This needed authority would be provided, with significant limitation, by the redefinition of "emergency" and the inclusion of a new Title V, FEDERAL EMERGENCY ASSISTANCE PROGRAMS.

3. A declaration of "major disaster" where only immediate emergency assistance is required would be permissible. The change which would be made by sec. 5(2) would confirm this authority. The President will be authorized to declare a "major disaster" for which only limited forms of assistance would be provided.

The combined effect of the changes to the definitions of "major disaster" and "emergency" and the addition of the new Title V would be to establish separate statutory authority for dealing with two distinct types of situations. Title III would contain administrative provisions which would apply to both major disasters and emergencies. Title IV would authorize a broad range of authorities for the Federal Government to provide assistance to supplement the efforts and available resources of State and local governments in carrying out their responsibilities for relieving damage, loss, hardship and suffering in the aftermath of natural catastrophes (and floods, fires and explosions of natural, non-natural or undetermined causes). The new Title V would authorize the Federal Government to provide limited assistance, namely to save lives and protect property, public health and safety or to lessen or avert the threat of a catastrophe, to supplement the efforts and capabilities of State and local governments in coping with their responsibilities in a much broader range of incidents, including natural and non-natural events.

Sec. 6

Sec. 6 would amend Title II of the Act to eliminate the reference to the Defense Civil Preparedness Agency (an agency whose functions have been transferred to FEMA); to require natural hazard evaluation and mitigation elements in State disaster plans when updated and improved with sec. 201(d) grants; to increase the Federal matching grant authority from \$25,000 to \$50,000 for sec. 201(d) grants; and to add a separate authorization for appropriations for Title II activities which would require the separate identification and budget justifications for Title II expenditures.

FEMA Position

FEMA supports each of these changes. In particular, FEMA supports doubling the sec. 201(d) Federal matching grant. This change would reflect the need for States to adequately plan for the increased State and local government funding and operational involvement in public assistance and temporary housing.

Sec. 7

Sec. 7 would delete secs. 301, 305, 306 and the first two sentences of sec. 302(a). It would also change the title of sec. 302 (new sec. 301) and eliminate "economic status" from the nondiscrimination provision sec. 311 (new sec. 308).

Interpretation

Sec. 7 would permit FEMA to confirm that FEMA would not lose its current authority to direct other Federal agencies to provide assistance or to perform other disaster response functions authorized by the Act, with or without reimbursement of such agencies. We believe that such authority could continue under the terms of the remaining provisions of current sec. 302 (new sec. 301) and current sec. 307 (new sec. 304(a)). As for emergency work authorized following a major disaster declarations, Federal agencies are authorized to perform at the direction of the President (FEMA) (see new sec. 403(a)).

FEMA Position

FEMA does not object to any of these changes. Most of the provisions of sections 301, 305, 306 and the first two sentences of 302 are merely transferred to other sections of the Act as it would be amended. We note a typographical error in the cordon: there should be a closing bracket after "assistance" in the title to new sec. 301.

Sec. 8

Sec. 8 would amend sec. 303 (new sec. 302) by making the Director or his designee the Federal coordinating officer, unless otherwise directed by the President; by providing, by statute, for a Federal coordinating officer for an emergency as well as a major disaster; and by specifically identifying the Federal coordinating officer as the President's representative.

FEMA Position

FEMA supports these changes. Together, these changes should have beneficial effects from recognizing the Director of FEMA as having overall responsibility for coordinating Federal response to civil emergencies which are declared major disasters or emergencies. Further, sec. 3, by recognition of the status, function and accountability of the Federal coordinating officer, should facilitate his or her efficient operation.

2

Sec. 9

Sec. 9 would add a new subsection to sec. 307 (new sec. 304(b)) to permit FEMA to credit the disaster relief appropriation with reimbursements for advances, overpayments, or payments for property and services.

FEMA Position

It is Administration policy that program receipts revert to the General Fund. There is no reason to make an exception to this policy for the Disaster Assistance Program. FEMA therefore opposes sec. 9.

Sec. 10

Sec. 10 would amend sec. 315 (new sec. 312) by adding a new subsection (d) providing that Federal and other disaster assistance shall not be considered as income or resources in the context of federally-funded income assistance or resource tested benefit programs.

FEMA Position

FEMA supports this proposed change. Its enactment would preclude the reduction in benefits to individuals and families in federally-supported unemployment assistance or welfare benefits as a result of their receipt of disaster assistance.

Sec. 11

Sec. 11 would add a new subsection to sec. 316 (new 313(b)) to require the President to "report" to the House and Senate Committees on each emergency and major disaster.

FEMA Position

FEMA suggests that the section be changed to require FEMA to "notify" the committees "of" each declaration; the reporting requirements of new sec. 313(a) should be adequate. We also suggest that, to be consistent with new sec. 313(a), as amended by sec. 22(16), the reference to the "President" be changed to the "Director" and that the final clause be changed to read "that the President has declared."

Sec. 12

Sec. 12 would renumber current sec. 405 as new sec. 315 and make conforming changes; would add a new authority authorizing the Attorney General to institute suits to recover disaster assistance expenditures which are the proper responsibility of another party; would add a new sec. 317 to give the Director express authority to audit and investigate, to require audits by State and local governments and to examine financial records of any person or entity relating to disaster assistance; and would renumber as new sec. 318, and expand, current sec. 317.

Background

New sec. 315 is with minor changes, current sec. 405. Sec. 316 is very similar to FEMA's legislative proposals, which was introduced as S. 1216. New sec. 317(a) is similar to a provision in the Labor-Management Reporting and Disclosure Act of 1959, as amended; sec. 317(b) is a new section; and sec. 317(c) is identical to provisions in several statutes and the regulations of several agencies, including FEMA. Sec. 318(a) and (b) are based on similar provisions in the Labor-Management Reporting and Disclosure Act and similar to current sec. 317(a); new sec. 318(c) is a renumbering of current sec. 317(c); new sec. 318(d) is similar to current 317(b) although the civil penalty is twice as large; new sec. 318(e) and (f), providing enforcement mechanisms, are new; and sec. 318(g) is based on a similar provision in the Inspector General Act.

FEMA Position

FEMA supports each of these changes. New sec. 316, "Recovery of Funds", would clarify the Government's authority to bring actions against parties

which cause or contribute to major disaster or emergencies. As a clarifying amendment, we suggest that the language of the section be modified by replacing "resulting in" in the first sentence with "for which Federal assistance is provided pursuant to...." New sec. 318 would expand on the civil and criminal sanctions of current sec. 317 by providing for a misdemeanor for false statements which could be used in lieu of the harsher felony provisions of the U.S. Criminal Code. It would also provide a mechanism by which penalties can be imposed by regulation issued by the Director, as well as injunctive relief authority. New subsections are based for the most part on existing and tested authorities of the Federal statutes.

Sec. 13

Sec. 13 would add sec. 401, dealing with the declaration process for major disasters and loans or advances of funds for the State and local share of assistance which is provided on a cost-sharing basis; sec. 402, authorizing the President and, by delegation FEMA, to direct other Federal agencies to provide assistance under their own authorities and without reimbursement, to coordinate Federal assistance and to coordinate with State and local governments, and to provide technical and advisory assistance; and sec. 403, authorizing the provision of emergency assistance, under this Act, following a major disaster declaration.

Background

Sec. 401(a) is currently codified at sec. 301(b) of the Act. Sec. 401(b) is similar to a provision recommended by FEMA as part of its formal legislative proposal package. Sec. 402 is drawn from current secs. 302(a) and 305(b); it is similar to new sec. 502. Sec. 403, with some changes in subsection (a)(4), is a recodification of current sec. 306; many features of this section are still intact from the original 1950 comprehensive Disaster Relief Act.

Interpretation

By the parenthetical clause of new sec. 401(a), a State commitment must constitute a "significant proportion" of the overall State and local commitment. The determination of whether the State commitment constitutes a "significant proportion" shall be made on a case-by-case basis. The determination shall be based on whether the State commitment is a substantial part of the overall State and local resources applied to the disaster recovery effort. It shall also be based on whether, given the resources available

to the State, the Governor's commitment is adequate to demonstrate to the satisfaction of the President (FEMA) his or her sincerity in requesting supplemental Federal disaster assistance. Sec. 401(b) would authorize advances or loans of the State and local share of grants for which there would be cost-sharing requirements; it would not affect current sec. 414 (new sec. 416) dealing with community disaster loans. Sec. 401(b) would impose stricter standards for the advance or loan of the State and local share of grants made under new sec. 405, dealing with permanent restoration of public facilities. As a result, advances or loan of the State and local share of grants made under new sections 406 (debris removal) and 410 (Individual and Family Grants) would be more readily available than advances or loans for permanent restorative work, which would rarely be made. Sec. 403(b) ensure that all debris removal assistance, whether needed as emergency work or not, would be cost-shared on a 75%-25% basis.

FEMA Position

FEMA supports the reorganizational and substantive changes which would be made by sec. 13. As to sec. 401(a), we specifically support the requirement for the Governor's certification of a State and local government commitment to the disaster relief effort. Sec. 401(b) would add a new subsection authorizing FEMA to advance or loan State and local shares of grants for which there would be a cost-sharing requirement. In the formal legislative proposal on this subject, FEMA proposed such legislation with respect to public assistance. The bill incorporates that proposal and joins it with the Individual and Family Grant (IFG) advance of State share authority from current sec. 408(b). The proposed section provides stricter conditions for the advance or loan of public assistance funds; we think that this is appropriate. We suggest for clarity that "100% of" be added in the last sentence of sec. 403(a)(4) between "projects" and "the".

Sec. 14

Sec. 14 would amend sec. 402 (new sec. 405) and section 403 (new sec. 406) for several purposes. It generally would impose a 75% limitation on the Federal contribution for permanent restorative work on public facilities and debris removal, respectively. The section would also incorporate an expansion of the concepts of current sec. 419 into new sections 405 and 406. Several elements of current sec. 402 would be retained in new sec. 405: subsection (a) deals with the repair, restoration, reconstruction or replacement of public facilities, the definition of which is moved from 402(d) to new 405(a); subsection (b) would continue the eligibility of certain private nonprofit facilities; subsection (d) would continue the provision of 402(c) relating to projects under construction, except that new 405(d) would preclude assistance where, under a contract, the contractor is responsible for disaster related expenses; and subsection (e) would retain the flexible funding authority of old sec. 402(f) except that the contribution would be limited to 67% rather than 90%. Sec. 14 would eliminate the current provision of sec. 402 authorizing Federal reimbursement for the costs of complying with applicable codes, specifications and standards; however, new sec. 405(c) would require that permanent restorative work still be accomplished in conformity with applicable codes, specifications and standards as well as in compliance with environmental protection, floodplain management, and hazard mitigation criteria required by the Director of FEMA.

FEMA Position

1. Section 14 incorporates FEMA's single most important legislative initiative, the requirement that State and local governments share the cost of permanent restorative work and debris removal at the rate of 75% Federal, 25% State and local. This change in the statute would assure the supplemental nature of the Federal aid under the public assistance

authorities. The existing legislation requires a Governor, as a condition for assistance under the Act, to certify that the total obligations and expenditures of both State and local governments for a major disaster constitute a reasonable commitment. This commitment has always been difficult to ascertain. Requiring 75-25% cost-sharing by statute would assure that a reasonable commitment would be made by state and local governments with regard to public assistance. With the grantees' cost-sharing in permanent restorative work, we anticipate tighter financial controls over planning and construction and other ways of reducing long-term costs related to disaster projects. We also anticipate that State and local governments will be more prudent in their assessments of needs for debris removal and permanent restorative work. Savings due to 75-25% cost-sharing for public assistance are currently estimated at an average of \$50 million per annum. We have incorporated these savings into the administration's budget for FY 1983. While FEMA recommended the inclusion of a new section to the law related to 75-25% cost-sharing, the essence of that proposal was incorporated into Section 14. We, therefore, strongly support the enactment of this feature of the bill. As a technical drafting matter, FEMA suggests that the legislative history clearly and expressly state that any grant under the 75-25% limitation is precluded unless there is a 25% nonfederal contribution; States and local governments may not simply limit their expenditures to the Federal contribution. Further we believe that the underlying purposes of the 75-25% provision would be frustrated if an applicant were permitted to receive other Federal funds specifically to meet the matching requirement. However, applicants should be able to apply funds originating with the Federal government when such funds were provided under general revenue sharing or broad block grant authority. In these latter situations, the applicant would still have to

make decisions about where to best expend the funds under its control; this would ensure prudent applications for disaster assistance.

2. A second important legislative initiative by FEMA relating to public assistance urged an expansion of the current section 419, small project grants. We believe that this section provides a tested and time-saving method of reducing the burden of administrative costs and delays for small projects. The section currently permits FEMA to make full grant payments based on the estimated cost of repairing disaster damage to public facilities. Except on for spot-checks, or upon receipt of evidence of gross errors or fraud, there generally would be no requirement to perform detailed audits or final inspections of the work completed. FEMA would retain the authority to perform inspections and audits on particular projects in order to ensure the integrity of applicable programs. The success of the existing small project grant mechanism led FEMA to propose that the current limitation on the applicability of section 419, \$25,000 for the cumulative estimated costs for all projects belonging to a particular applicant, be changed to \$25,000 for each individual project. Based on our most recent computer analysis, we anticipate that approximately 90% of all projects processed, representing less than 10% of all funds expended, could be included under the new small project grant mechanism as a result of this change. The proposed change would gain the advantages of management by exception with greatly reduced administrative costs and delays.

Section 14 incorporates the essence of FEMA's proposal in a very simple way. Contributions for permanent restorative work would be limited to 75% of the net eligible costs or "for small projects [75% of] the Federal estimate of the net eligible cost" of repairs or restoration.

The quoted portion permits FEMA to make a grant based on the estimate, rather than having to resort to inspections and audits to determine the actual costs of restoration. The change also permits FEMA to establish, by regulation, the definition of "small projects" to which this expedited procedure may be applied. We anticipate that a ceiling would be established initially at \$25,000 per project. The section also, as we proposed, deletes any provision for expending the small project grants on anything but the restoring or replacing of the damaged or destroyed public facility on which the grant was based. Section 14(c) makes provision for the same project grant mechanism for debris removal assistance and similar provisions are made for emergency work in a major disaster by section 13. FEMA strongly supports these features of the bill.

We have noted one particular area of possible misunderstanding in the sec. 14 as it relates to small projects. While it does not appear to be the intent of Congress, the section could be interpreted as authorizing 100% grants for small projects. We therefore urge a technical amendment to the section: add "75% of" between "or for small projects" and "the Federal estimate of". The identical change needs to be made in subsections 405(a), 405(b), 405(d), 406(c). In contrast, but for the same purpose of confirming Congressional intent, new sec. 403(a)(4) relating to the provision of emergency work in a major disaster, could be amended to read, in the last sentence as follows:

Such contributions shall not exceed 100 per centum of the net eligible cost, or for small projects 100 per centum of the Federal estimate...

As a result of sec. 14, there would be authority to make grants to public assistance applicants based either on the actual net eligible costs of the restorative work or the Federal estimate of that cost. The latter

mechanism is expressly available for "small projects"; this provision is consistent with FEMA's legislative proposal on the expansion of current sec. 419. There are however, additional situations where actual net eligible costs can not be determined; we urge the Committee to confirm, in legislative history, that there is no intent to preclude FEMA from relying on Federal estimates in such situations. Examples include the longstanding practice of providing a "grant in lieu" when a applicant, in restoring its capability to continue providing a service, decides to rebuild a larger or better facility. By regulations, FEMA is permitted to provide funds to the extent that it would have funded the restoration of precisely what was lost. The determination of grant amount necessarily is based on an estimate. There are also other situations where actual costs are not available such as when an applicant has maintained inadequate records, where records have been destroyed or where FEMA can not justify reimbursing what it determines to be excessive costs. Each of these situations requires the development of estimates.

3. We do not, however, agree with all of section 14 as it currently reads. The section would also change the current practice of reimbursing disaster public assistance applicants for the costs of complying with applicable codes, specification and standards. We strongly object to this change because it would substantially reduce the grants to state and local governments, especially those for repair or replacement of older public facilities. This reduction would be on top of the 25% state and local share which is already required in sec. 14. Second, the change would substantially complicate the mechanism for establishing the grant amount.

Currently, repair or replacement costs are estimated on the basis of modern construction practices using functional materials and equipment.

It would be very difficult to isolate the costs attributable to certain codes, specifications and standards made applicable since the facility was originally constructed, particularly where unit prices compiled from analysis of recent contracts are used for certain types of work. Third, as a practical matter, FEMA's ability to encourage applicant expenditures for hazard mitigation and other prudent measures, in connection with the repair and restoration of buildings or facilities, would be substantially reduced in the absence of FEMA authority to fund applicable codes, specifications and standards on a 75-25% cost-sharing basis. Along these lines, the Committee may wish to consider the inclusion of alternate or additional statutory authorities to fund other post-disaster hazard mitigation measures and disaster planning. FEMA is making proposals in this regard. They are found after the comments on Sec. 22.

The retention of FEMA's current authority to reimburse the costs of complying with codes, etc., could be accomplished by adding at the end of the second sentence of new sec. 405(a) the following:

"and in conformity with current applicable codes, specifications, and standards"

The same change would also be made in subsections 405(b), (d) and (e), for consistency.

These changes would permit FEMA to continue its current practice in this regard. Under the current Act (and the 1970 Act), FEMA and its predecessor agencies have made grants for permanent restorative work which are based on the cost of replacing the predisaster design capacity of the damaged or destroyed public facility. The grant cannot cover added capacity or new features which did not exist at the time of the disaster. However,

additional funds may be made available to conform the repaired or rebuilt facility to applicable codes, specifications and standards. As stated in regulations, to be applicable, such codes, specifications and standards had to have been in writing, enforced and in general use at the time of the disaster, or be approved as deviations or prescribed as standards by FEMA. However, an applicant still cannot augment the capacity of the facility based on code requirements, even if a bigger facility is required to meet community needs. Typical code requirements which can be covered by a FEMA grant include those related to lighting and plumbing and extra space to accommodate the same number of patients, students, etc., which the facility was originally designed to accommodate.

The current statutory formula, we feel, provides a fair and reasonable basis for reimbursing States and local governments, while ensuring that Federal expenditures are limited. The principal limitation is the prohibition against providing funding for augmented capacity. There are other limitations addressed in the regulations. FEMA has strong regulations implementing Executive Order 11988, Floodplain Management, which prohibit FEMA from taking an action in the 100-year floodplain unless it is the only practicable alternative; if FEMA does take the action, e.g., fund the repair or reconstruction of a public facility in a floodplain, it must ensure that the potential risks to the floodplain and to structures, other facilities and occupants of the floodplain are minimized. In no event may FEMA fund new construction of substantial improvements in a floodway (the area with the highest flood hazard) or new construction in coastal high hazard area, unless the facility is functionally dependent on water, or facilitates an open space use. FEMA's regulations also place limitations on grants for limited use and inoperative facilities, for nonessential features of facilities, and for anything more than

functional quality furnishings. Also, FEMA will not authorize funding for replicating a facility where it was originally constructed with techniques or materials which are no longer cost-effective. For example, FEMA has refused to fund the duplication of a covered bridge, the replacement of the marble facade on a court house, and the replacement of copper roofs on a university building. Further, FEMA currently has authority by regulation to deny funding assistance for any facility subject to frequent repetitive heavy damages.

FEMA recently reviewed the subject of the cost of reimbursing applicants for compliance with applicable codes, specifications and standards. We concluded that, based on estimates, the historical cost to FEMA resulting from applicable codes, specifications and standards is about 11% of the total estimated assistance. It appears that any savings that may be accomplished by eliminating the requirements to meet applicable standards would be relatively small. In fact, funding only the costs of replacing facilities as they were prior to a disaster may, in the long run, result in greater Federal costs due to the increased vulnerability of substandard facilities which may be replaced if no requirement exists to assure that applicable standards are not waived. FEMA could, of course, continue to require compliance with applicable codes. However, we have found that it is significantly more difficult to enforce hazard mitigation and other standards where the cost is borne exclusively by the local government or other eligible grantee.

4. Section 14 would retain existing section 402(f), the flexible funding provision. Under the renumbered 405(e), an applicant could cumulate the estimated cost of repairing or replacing all of its damaged public facilities, request a grant of 67% of that total (90% of 75%) and then

expend the grant for the restoration of selected facilities or the construction of new public facilities in the disaster area. We oppose section 405(e) as it appears in the bill. However, we would not oppose enactment of that subsection if three changes were made. First, Federal participation should be at the rate of 50% of the Federal estimate; this change could be accomplished by substituting "50 per centum" for "67 per centum" in the first sentence. This amendment would ensure the applicant's sincerity in requesting the flexible funding option. Second, FEMA suggests that subsection 405(e) be made applicable to individual projects, rather than all projects of an applicant taken together. This could be accomplished by substituting "such" for "all" so the final words of the first sentence of new 405(e) would read:

"...replacing such damaged facilities owned by it within its jurisdiction."

Third, FEMA suggests precluding the subsection's application to small projects. This could be accomplished by adding in the first line of sec. 405(e), the phrase "except for small projects," between "cases" and "where". These latter two changes would apply the flexible funding provision to larger projects on an individual basis. This would simplify FEMA's administration of the flexible funding option while preserving its availability to applicants for the most costly facilities.

5. FEMA supports the changes made to current section 402(b) and 402(c) (new 405(b) and 405(d), respectively). Sec. 405(b), dealing with restoration of certain private nonprofit facilities would retain the same provision currently found at sec. 402(b), except for the expressed limitation of Federal funding at 75%. We specifically support the application of the

small project expedited procedure to this subsection. As stated above, the language of the subsection should be changed to confirm that 75-25% also applied to small projects; the subsection would therefor read, in part,

"...or for small projects, 75% of the Federal estimate"

This same change should be made for new sec. 405(d).

6. Sec. 14 also amended and renumbers the debris removal assistance authority, current sec. 403, new sec. 406. As with sec. 405, debris removal assistance could be provided on a 75-25% cost-sharing basis (except for snow removal assistance which is normally provided on a 50-50% cost-sharing basis), regardless of whether the assistance is in the form of grants or direct Federal assistance. New sec. 405(c) should be amended, as above, to confirm that small project grants will also be limited to "75% of the Federal estimate."

Sec. 15

Sec. 15 would amend current sec. 404 (new sec. 407) in several respects. First, it would eliminate the automatic one-year rent-free period for providing temporary housing. Second, temporary housing would only be provided when adequate alternate housing is unavailable. Third, there would be explicit authority for administration of temporary housing programs by State and local governments and for FEMA to reimburse 100% of the eligible costs incurred. Finally, the section would state that Federal operational and financial responsibility for temporary housing would not exceed 18 months unless that time were extended by the President (FEMA) in extraordinary circumstances.

Interpretation

The intent of the elimination of the automatic one-year rent-free period is to impose the reasonable requirement that individuals and families needing temporary housing continue to pay at least what they were paying for housing before the disaster. We anticipate that occupants would be required to contribute the amount of their predisaster housing costs or 25% of their income whichever is greater. The explicit change authorizing FEMA to make contributions to State or local governments for the purpose of providing temporary housing, would clarify that FEMA, in addition to being authorized to provide such assistance directly, would have the option of providing assistance through other Federal agencies or through State or local governments which were willing and able to assume the responsibility. The determination of which mechanism is best would be within FEMA's sole discretion, assuming this section is delegated to the Agency. Finally, as to the 18 month period, in all but extraordinary circumstances, FEMA's operational and financial responsibility for the provision

of temporary housing would be assumed by the State at the end of that period or before.

FEMA Position

FEMA's legislative proposals recommended each of these changes; the Agency supports their enactment. We anticipate that the elimination of the one-year rent-free period and the requirement that alternate housing be unavailable before the provision of temporary housing should save the Government at least \$1 million per year. The other changes would confirm, by express statutory enactments, FEMA's policies and practices. These should facilitate FEMA's ability to provide temporary housing assistance in the most efficient and cost-effective manner.

Sec. 16

Sec. 16 would replace the current sec. 407 with a new sec. 409, still dealing with disaster unemployment assistance. The main changes would be to eliminate eligibility of such assistance where the individual is otherwise eligible for unemployment assistance under authority of any Federal or State act and to limit the duration of assistance to 26 weeks.

Interpretation

Disaster unemployment assistance would be unavailable to supplement, week by week, benefits received under any other unemployment compensation program under Federal or State statute. This assistance would also be unavailable to provide benefits during any waiting week period under those programs. Finally, disaster unemployment assistance would not be available following the expiration of an individual's eligibility for unemployment assistance under another program.

FEMA Position

In our legislative proposals, FEMA recommended the deletion of current sec. 407 with the understanding that the authority would be added to the Department of Labor's authorities. However, given the limitations which would be placed on the provision of disaster unemployment assistance, FEMA now supports the enactment of sec. 16 as written.

• •

Sec. 17

Sec. 17 would eliminate the second sentence of current sec. 408(b) relating to the advance of the State share.

FEMA Position

The authority to advance the State's share of the Individual and Family Grant program funds would be moved from sec. 408(b) to new sec. 401(b); it would be joined there with the authority to advance the State and local share of public assistance funding. FEMA does not object to this organizational change.

Sec. 18

Sec. 18 would amend sec. 408(d) (new sec. 410(d)) to permit FEMA to reimburse 50% of the State's administrative expenses in connection with the Individual and Family Grant program in excess of the currently reimbursed 3% of the Federal grant. Such extra reimbursement would be contingent on the State's completing all grants to eligible individuals and families within the period prescribed by FEMA.

FEMA Position

The agency supports the proposed amendment to increase the administrative expense reimbursement to 50% of costs exceeding the 3% when a state completes a program within the period prescribed by the President. The rationale for our support is based on the following:

- Once the emergency period is over, most state administrations do not assign high priority to the completion of the program. Historically, 85% of all programs received better than 90% of their applications within the application period (the first 60 days of the program). However, only 3% of the programs are completed within the regulated time frame (180 days).
- Many states are reluctant to staff programs with an adequate number of people to process applications rapidly because their administrative costs would exceed the 3% allowed them. Some states restrict the implementing agency's administrative costs to the amount which will be reimbursed by the Federal Government. When this has occurred, in order to protect the interests of the individuals and families being assisted, FEMA has had to step in and perform functions that are normally the State's responsibility (e.g., most recently FEMA performed the

verification of a large number of all applications in Mississippi because the State restricted the staffing because costs would exceed the 3%).

- Auditors have been critical of the time it takes to deliver assistance. They question the validity of awarding a grant weeks, and sometimes months, after a victim has made application, since the purpose of the grant is to meet necessary expenses and serious needs.
- An analysis is of those programs authorized during 1980 and 1981 and are closed revealed that:
 - Overall, states are actually receiving only 15% of their reported administrative costs;
 - Only 25% of the programs received funds adequate to cover the reported administrative costs; and
 - If the authority to provide additional reimbursement as proposed by sec. 18 had been in place over the last two years, we estimate that states would have received 57% of their reported administrative costs, assuming the states complied with the required deadlines. For the two year period analyzed, the extra reimbursement by FEMA would have totaled approximately \$775,000. This additional expenditure would have been supportable given the more efficient delivery of assistance to individuals and families.

If this section passes as written, the agency will clearly define in the program regulations the "period prescribed by the President" taking into account the fact that completing an IFG program is dependent on other programs.

If sec. 18 as currently written is unacceptable to the Committee, FEMA would support an alternate legislative change to make a reasonable increase in the current 3% ceiling to reimburse States for their actual administrative expenses.

Sec. 19

Sec. 19 would delete the parenthetical phrase "(through the National Institute of Mental Health)" from sec. 413 (new sec. 415) dealing with crisis counseling assistance.

FEMA Position

FEMA recommended this change and continues to support it.

Sec. 20

Sec. 20 would delete subsection (d) from sec. 418 (new sec. 420) authorizing grants to State and local governments for the removal of disaster-damaged timber from privately-owned lands.

FEMA Position

FEMA recommended this deletion and continues to support it. The section is unnecessary and is not used.

Sec. 21

Sec. 21 would amend sec. 606 of the Act (would not be renumbered by the bill) to authorize appropriations to the President of \$325 million for FY 1983 and such sums as may be necessary for FY 1984 and FY 1985 and \$6,108,000 to FEMA for administrative expenses for FY 1983 and such sums as may be necessary for FY 1984 and FY 1985.

FEMA Position

FEMA supports enactment of this section.

Sec. 22

Sec. 22 would make numerous changes to the Act, most of them conforming amendments, not substantive.

FEMA Position

Subsection 22(11) would eliminate the authority to use donated mobile homes to provide temporary housing following an "emergency." We do not believe this would be a beneficial change. Subsection 22(13) would eliminate the reference to "emergency" in current sec. 415 dealing with emergency communications. We understand that this change would be a conforming amendment; all sections in Title IV make explicit reference to use in a "major disaster." However, if emergency communications were required in an emergency, as part of the Federal supplemental assistance to save lives and protect property, public health and safety, assistance for emergency communications would be authorized by the general emergency assistance authority of Title V. With this understanding, we do not oppose this change. Subsection 22(16) would substitute "Director" for "President" in Title II and current sec. 316. These changes should facilitate the recognition of the Director as the Federal official responsible for the coordination of overall Federal civil emergency preparedness and response. This change to Title II, however, would not have the effect of authorizing new preparedness grants to States under sec. 201(c). Subsection 22(17) would substitute "Federal coordinating officer" for "President" in current sec. 312 (new sec. 309) dealing with the use and coordination of private relief organizations. We support this change but note the errors in the cordon, the capitalization of "coordinating officer" twice. We also note an error in current sec. 312(a) as enacted; there should be a "," between "community services" and "housing and essential facilities."

HAZARD MITIGATION FUNDING

One of FEMA's major responsibilities in connection with the provision of disaster relief is to act together with State and local governments, as well as other Federal agencies, to reduce the damage sustained during natural disasters and to minimize the potential for the recurrence of disasters by initiating appropriate hazard mitigation measures.

The hazard mitigation process involves anticipating the future impacts of hazards; identifying measures that can reduce or eliminate these impacts; selecting and providing for the scheduling of the most appropriate actions for reducing impacts of the hazards; and evaluating and reviewing mitigation actions for effectiveness.

The immediate post-disaster situation presents many opportunities to reduce annual damages from natural disasters. We find, given the widespread damage and hardship, that local officials and the community at large are more interested and willing to reach a consensus on solving the problems associated with minimizing future risks than they are normally. This is especially true given the large public and private investments which are required to restore damaged and destroyed facilities as a result of the disaster. Depending on the extent of damage, there may be unprecedented opportunities to relocate damaged or destroyed facilities or homes out of the most dangerous zones; this is probably the most effective means of reducing the risk of future damage. FEMA's ability to promote cost-effective prudent hazard mitigation measures is largely dependent on its ability to participate in their costs.

FEMA has two proposals relating to hazard mitigation funding. These are 1) retaining the current statutory authority to contribute to the cost applicants' compliance with applicable codes, specifications and standards (this would require a change in S. 2250 but not the current statute; 2) the addition of a new funding authority for hazard mitigation projects.

1) FEMA supports the retention of the current statutory authority to contribute, on a cost-sharing basis (75-25%), to the cost to a state, local government or an eligible private nonprofit organizations for complying with applicable codes, specifications and standards in connection with permanent restoration or replacement of damaged or destroyed facilities. The amendment to S. 2250 which we support and the arguments in its favor are included in our comments on sec. 14 of the bill.

Under current practice, "applicable codes, specifications and standards" fall into two basic categories. First are those written requirements, in effect and enforced at the time of the disaster. According to both new sec. 405(c) and new sec. 408 of the Act as it would be amended, an applicant for permanent restorative work must repair or rebuild its facility in accordance with such requirements in order to be eligible for FEMA funding of the project. The second category of requirements are those enacted after the disaster and approved by FEMA, or additional requirement imposed after the disaster and prescribed by FEMA. It is this second category of codes, specifications and standards which is particularly relevant to this discussion of hazard mitigation funding. In accordance with current sec. 406 (new 408), FEMA may prescribe or approve codes, specifications and standards relating to hazard mitigation only "after adequate consultation with the appropriate elected officials of general

purpose local governments..." It goes without saying that FEMA's ability to be successful in those consultations and to win the cooperation of local governments in efforts to encourage prudent hazard mitigation is heavily dependent on FEMA's authority to share the costs of complying with approved or prescribed codes, specifications and standards. This would be accomplished by the retention of the statutory authority to contribute to the costs of complying with applicable codes, specifications and standards.

2) The second element of FEMA's proposals relating to hazard mitigation funding would require an additional change to the current statute. We propose the authorization of limited, cost-shared funding of specific hazard mitigation projects to be accomplished following a disaster. ~~This second proposal would supplement but not replace the first proposal relating to hazard mitigation, above.~~

Such projects would be identified in the hazard mitigation plan. Current sec. 406 (new sec. 408) requires,

As a further condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluate and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish evidence of compliance with this section as may be required by regulation.

This provision is implemented by 44 CFR part 205, Subpart M, which typically requires the submission of a hazard mitigation plan. Under FEMA's proposal, this plan, subject to the approval of FEMA, would identify the most important and potentially cost-effective hazard mitigation

projects, and establish a recommended ranking of those projects by importance. Such projects would not necessarily have to be specifically related to particular damaged facilities, but rather be significant in reducing the threat of future damage and hardship for the entire disaster area or for a significant facility in that area. There would be a limitation on the total amount of Federal disaster assistance funds to be expended on such projects; we recommend a ceiling of 2.5% of the public assistance costs assumed by FEMA for permanent restorative assistance for the subject major disaster. Based on our financial records, in FY 1979, 2.5% of such costs would amount to approximately \$4.5 million; for FY 1980, the figure would have been \$3.3 million; and for FY 1981, the figure would have been approximately \$.8 million. The potential savings to the Federal, State and local governments would be much greater. We therefore recommend that the following provision be added, as an amendment, to S. 2250:

Sec. 406 [new sec. 408] is amended by adding "(a)" after "406" and by adding a new subsection "(b)" as follows:

"The President is authorized to contribute up to 50% of the cost of implementing hazard mitigation projects which he has determined would be cost effective and would substantially reduce the risk of future damage, hardship, loss or suffering in the area affected by a major disaster. Such projects shall be identified following the evaluation of natural hazards provided for in subsection (a) of this section and shall be subject to approval by the President. The total of the contributions made under this subsection shall not exceed 2.5% of the Federal grants made under the authority of section 405 of this Act for each major disaster.

There have been numerous situations where under this authority, had it been enacted at the time, FEMA could have been more effective in encouraging prudent hazard mitigation. For example, FEMA authorized a grant of

several million dollars for the restoration of a Wheeling, West Virginia, hospital. As a condition of assistance the hospital was required to fund and construct a drainage diversion ditch around the hospital to prevent a recurrence of the flood damage. This hazard mitigation measure cost approximately \$170,000. Given the millions of dollars FEMA spent on the restoration of the hospital, the cost of the hazard mitigation project was clearly cost effective. While ultimately \$119,000 was secured by the hospital from the Appalachian Regional Commission to partially fund the project, we would have been able more readily to insist on the hazard mitigation project if we had been able to contribute to it on a cost-sharing basis. As a second example, we worked with the Texas Medical Center in Houston, Texas, in developing a comprehensive flood hazard protection plan to prevent future recurring damage. FEMA ultimately justified a contribution to the costs involved by approving standards relating to facilities damaged by the major disaster, with the Medical Center being required to pay for work on undamaged facilities to conform to the approved standards. Again, if we had broader authority to contribute to the costs of the hazard mitigation measures, we would have been able to assure the protection of the complex more readily and effectively.

When FEMA determines that a particular hazard mitigation project is essential, but has no authority to contribute to the cost of the project, FEMA must select the "no action" alternative and deny funding for permanent restorative work, unless the State or affected local government is willing to undertake the project at its own expense. For further example, during March 1978, a runway of the Phoenix, Arizona, airport was damaged by a flooding major disaster and FEMA approved funding to replace several thousand feet of subgrade and runway. During December 1978, a second flooding

major disaster again destroyed the same runway. As a condition for FEMA funding of the second replacement of this runway, FEMA required the Airport Authority (applicant) to complete at nonfederal expense, mitigation measures including certain channel improvements and bank protection projects in the river at the end of the runway. If this applicant had been unwilling to fund the required hazard mitigation measures, FEMA would probably have applied the "no action" alternative in this case. We suggest that FEMA should have legal authority to participate in these projects on a 50-50% cost-sharing basis.

INSURANCE

FEMA proposes the addition of the following section to S. 2250:

Sec. 314 [new sec. 311] is amended by renumbering paragraphs (a), (b) and (c) as (b), (c) and (d), respectively, and by adding at the beginning thereof a new paragraph as follows:

(a) "The President shall deny assistance which otherwise could be provided under sec. 405 of this Act to the extent that damage for which assistance is requested could have been compensated by reasonably available, adequate and necessary flood insurance. A determination concerning the availability, adequacy and necessity of flood insurance shall be made by the President, without regard to paragraph (b)(2) of this section. The limitations of this paragraph shall apply only pursuant to regulations promulgated by the President."

NOTES

1. The purpose of this amendment would be to encourage States, local governments and eligible private nonprofit organizations to exercise prudent judgment in obtaining flood insurance, typically through the National Flood Insurance Program, to protect their insurable property against foreseeable flood hazards. The amendment would also ensure that Federal assistance under the Act to such entities not exercising prudent judgment as to insurance be appropriately limited.

2. The denial of assistance for an applicant's failure to exercise prudent judgment in obtaining reasonable flood insurance prior to a major disaster would relate only to damage for which compensation could

have been received. In other words, an applicant which is penalized would not necessarily lose eligibility for all disaster assistance.

3. If this proposal is enacted and proves to be workable, FEMA could propose additional legislative changes in the future to deal with other types of insurance (e.g., wind, fire, earthquake), and other forms of assistance (e.g., Individual and Family Grants, temporary housing).

Miscellaneous Comments

1. We renew our support of the legislative proposal to delete current 318. The section has never been used and we believe it is unnecessary.
2. The cordon incorrectly identifies current sec. 313 as new sec. 313; it should become new sec. 310.
3. We suggest consideration of a section in S. 2250 specifying that the amendments would be effective for major disasters and emergencies declared 60 days after enactment. This would permit the more orderly publication of implementing regulations. We suggest the following language:

"This Act shall take effect 60 days after enactment.

However, the provisions of this Act shall not be effective as to emergencies or major disasters declared by the President prior to 60 days after the enactment of this Act."

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 2:00 PM EST
TUESDAY, APRIL 20, 1982

STATEMENT OF
LOWELL DODGE, ASSOCIATE DIRECTOR
COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION
BEFORE THE
SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT
OF THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ON
FEDERAL DISASTER ASSISTANCE AND S.2250

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE WELCOME YOUR INVITATION TO BE HERE TODAY TO DISCUSS THE RESULTS OF SOME OF OUR PAST AND CURRENT REVIEWS OF FEDERAL ASSISTANCE ADMINISTERED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND TO OFFER COMMENTS ON S. 2250, A BILL TO AMEND THE DISASTER RELIEF ACT OF 1974 (PUBLIC LAW 93-288).

GAO REVIEWS OF FEDERAL
DISASTER ASSISTANCE

OVER THE PAST 4 YEARS WE HAVE REPORTED ON A WIDE RANGE OF ACTIVITIES CARRIED OUT BY FEMA AND ONE OF ITS PREDECESSOR AGENCIES, THE FEDERAL DISASTER ASSISTANCE ADMINISTRATION. A LIST OF OUR REPORTS ISSUED SINCE MARCH 1978 IS OFFERED IN APPENDIX I.

OUR CURRENT WORK RELATES TO DISASTER ASSISTANCE PROVIDED TO STATES AND LOCAL COMMUNITIES, AND TO ASSISTANCE PROVIDED IN RESPONSE TO THE MOUNT ST. HELENS MAY 1980 ERUPTION. THESE

EFFORTS DO NOT COVER FEMA'S CIVIL DEFENSE OR PREPAREDNESS PROGRAMS WHICH ARE REVIEWED BY ANOTHER GAO DIVISION.

CONGRESSIONAL ACTION
NEEDED TO CLARIFY ACT

IN DECEMBER 1981 WE ISSUED A REPORT ENTITLED "REQUESTS FOR FEDERAL DISASTER ASSISTANCE NEED BETTER EVALUATION" (CED-82-4). THIS REPORT IDENTIFIES TWO IMPORTANT ACTIONS TAKEN BY FEMA WHICH HAVE RAISED CONCERN OVER WHETHER FEMA HAS, IN EFFECT, ALTERED THE SCOPE OF THE DISASTER RELIEF ACT. THE ISSUES PRESENTED BY BOTH OF THESE ACTIONS ARE ADDRESSED IN S. 2250.

COST SHARING

IN MAY 1980 FEMA ADOPTED A GENERAL POLICY OF REQUIRING STATE AND LOCAL GOVERNMENTS TO AGREE TO PAY 25 PERCENT OF THE ELIGIBLE COSTS OF THE PUBLIC ASSISTANCE PORTION OF DISASTER RELIEF PROVIDED BY THE FEDERAL GOVERNMENT. THIS POLICY WAS INTENDED TO REMOVE ADMINISTRATIVE PROBLEMS ASSOCIATED WITH ATTEMPTING TO DETERMINE A "REASONABLE" COMMITMENT OF STATE AND LOCAL FUNDS FOR EACH DISASTER. IT ALSO HELPS ASSURE COMPLIANCE WITH THE STATUTORY INTENT THAT THE FEDERAL AID BE SUPPLEMENTAL.

OUR REVIEW OF FEMA'S COST-SHARING POLICY FOUND THAT IT IS CONSISTENT WITH THE DISASTER RELIEF ACT. HOWEVER, THE POLICY HAS CREATED CONTROVERSY AMONG THE STATES. STATE OFFICIALS CONTEND THAT THE POLICY FORCES THEM TO PAY FOR DISASTER RELIEF COSTS WHICH THE STATES BELIEVE ARE BEYOND THEIR CAPABILITY TO PAY OR WHICH WILL CONSUME MORE THAN A REASONABLE AMOUNT OF STATE AND LOCAL FUNDS. TO PUT THE CONTROVERSY TO REST, GAO RECOMMENDED THAT THE CONGRESS CLARIFY THE EXTENT OF THE STATE AND

LOCAL CONTRIBUTION THAT SHOULD BE COMMITTED BEFORE SUPPLEMENTAL FEDERAL ASSISTANCE IS PROVIDED.

SECTION 14 OF S. 2250 WOULD PROVIDE NEEDED CLARIFICATION OF CONGRESSIONAL INTENT ON COST SHARING BY LIMITING FEDERAL CONTRIBUTIONS FOR PUBLIC ASSISTANCE PROJECTS TO 75 PERCENT OF NET ELIGIBLE COSTS.

BY STATING THE FEDERAL SHARE IN TERMS OF A 75-PERCENT LIMIT, THIS PROVISION WOULD ALLOW FOR A LESSER FEDERAL CONTRIBUTION WHERE A STATE IS CAPABLE OF PAYING MORE THAN A 25-PERCENT SHARE. WE SUGGEST THAT THE CONGRESS CONSIDER MAKING IT EXPLICIT THAT THE PRESIDENT MAY REQUIRE A STATE TO CONTRIBUTE MORE THAN 25 PERCENT UPON A FINDING THAT A STATE IS CAPABLE OF DOING SO. IN SHORT, WE BELIEVE FEMA SHOULD CONTINUE TO EVALUATE EACH RECIPIENT'S CAPABILITY TO HANDLE ITS OWN DISASTER RELIEF NEEDS, AND LIMIT THE FEDERAL CONTRIBUTION ACCORDINGLY. WE DO NOT BELIEVE THAT THE 75-PERCENT LIMIT SHOULD BECOME A RIGID AND AUTOMATIC STANDARD FOR ALL MAJOR DISASTERS.

SECTION 13 OF S. 2250 PROPOSES THAT THE PRESIDENT BE AUTHORIZED TO LEND OR ADVANCE TO A STATE ITS 25-PERCENT SHARE IN ANY CASE WHERE THE STATE IS UNABLE TO ASSUME RESPONSIBILITY FOR ITS SHARE. WE WOULD OFFER A CHANGE IN THE LANGUAGE OF THIS SECTION TO MAKE IT CLEAR THAT THE PRESIDENT BE AUTHORIZED TO LEND OR ADVANCE THE STATE'S SHARE, OR ANY PART OF THIS SHARE, (WHETHER THIS SHARE IS DETERMINED TO BE 25 PERCENT, OR LARGER) TO ALLOW FOR STATES IN A POSITION TO ADVANCE SOME PORTION BUT NOT ALL OF THEIR SHARE OUT OF IMMEDIATELY AVAILABLE RESOURCES.

AS IT PRESENTLY READS, THE SECTION APPEARS TO AUTHORIZE THE PRESIDENT TO ADVANCE ONLY A 25-PERCENT SHARE.

SECTION 13 SETS NO CONSTRAINTS ON REPAYMENT TERMS, EXCEPT TO PROVIDE THAT AFTER 2 YEARS THE STATE'S OUTSTANDING OBLIGATION SHALL BEAR INTEREST AT A RATE TO BE DETERMINED BY THE SECRETARY OF THE TREASURY. THIS REQUIREMENT SHOULD ENCOURAGE PROMPT REPAYMENT BY THE STATES.

WE DO NOT BELIEVE THAT THE CONGRESS SHOULD ENACT THE 75-25 COST-SHARING REQUIREMENTS OF SECTION 14 OF S. 2250 WITHOUT ALSO ENACTING SECTION 13, WHICH ALLOWS FLEXIBILITY IN REPAYMENT. WE WOULD SUGGEST FURTHER THAT THE AMENDMENT AUTHORIZE THE PRESIDENT, AFTER ANY SUCH LOAN IS ADVANCED TO A STATE, TO RELIEVE THE STATE OF ANY PART OF ITS OBLIGATION TO REPAY UPON A FINDING THAT REPAYMENT OF THE FULL AMOUNT OWED BY THE STATE WOULD IMPOSE AN UNDUE BURDEN, SUCH AS IN THE CASE OF AN EXTRAORDINARY DISASTER.

NON-NATURAL DISASTERS

SECOND, OUR DECEMBER 1981 REPORT ADDRESSES THE ISSUE OF WHETHER FEDERAL DISASTER FUNDS SHOULD BE AVAILABLE FOR NON-NATURAL DISASTERS. IN 1980 FEDERAL EMERGENCY ASSISTANCE WAS PROVIDED TO ASSIST STATES IN HANDLING SUCH SITUATIONS AS THE LOVE CANAL CHEMICAL CONTAMINATION AND THE CUBAN REFUGEE INFLUX. THESE ACTIONS STIRRED CONSIDERABLE CONTROVERSY REGARDING WHETHER NON-NATURAL "CATASTROPHES" ARE WITHIN THE PURVIEW OF EXISTING LAW. THE CURRENT LAW IS NOT CLEAR ON THIS MATTER, BUT DOES ALLOW THE PRESIDENT TO MAKE DECLARATIONS FOR "OTHER CATASTROPHES," AS WELL AS FOR SPECIFICALLY IDENTIFIED NATURAL CATASTROPHES.

WE RECOMMENDED THAT THE CONGRESS REEVALUATE THE ACT AND CLARIFY ITS INTENT REGARDING THE EXTENT TO WHICH SUPPLEMENTAL FEDERAL ASSISTANCE SHOULD BE GIVEN IN A MAJOR DISASTER AND THE TYPES OF INCIDENTS THAT MAY RECEIVE DISASTER ASSISTANCE.

SECTION 5 OF S. 2250 WOULD ADDRESS THIS CONCERN BY AMENDING THE DEFINITION OF "MAJOR DISASTER," TO LIMIT DISASTERS IN THIS CATEGORY TO "NATURAL" DISASTERS. AT THE SAME TIME, SECTION 3 WOULD AMEND THE DEFINITION OF "EMERGENCY" TO MAKE IT CLEAR THAT THE PRESIDENT COULD DECLARE AN EMERGENCY FOR ANY TYPE OF CATASTROPHE. WE UNDERSTAND THAT THIS DEFINITION INCLUDES SOCIAL, ECONOMIC, OR OTHER MANMADE PHENOMENA OR INCIDENTS.

WE BELIEVE THIS PROPOSED CLARIFICATION IS CONSISTENT WITH OUR RECOMMENDATION. WE WOULD, IN ADDITION, NOTE OUR SUPPORT FOR THE NOTIFICATION PROVISIONS PROPOSED IN SECTION 4 OF S. 2250. SECTION 4 WOULD, IN EFFECT, ESTABLISH A MECHANISM TO ENABLE THE CONGRESS TO MONITOR ON A CASE-BY-CASE BASIS EMERGENCIES REQUIRING SIGNIFICANT EXPENDITURES OF FEDERAL FUNDS, INCLUDING FUNDS FOR NON-NATURAL DISASTERS. SECTION 4 ACCOMPLISHES THIS END BY REQUIRING THE PRESIDENT TO INFORM THE CONGRESS OF THE NATURE AND EXTENT OF EMERGENCY ASSISTANCE REQUIREMENTS IN ANY INSTANCE WHERE THE PRESIDENT DETERMINES THAT FEDERAL EMERGENCY ASSISTANCE MUST EXCEED A \$5 MILLION LIMIT SET FORTH IN THE SECTION.

INEQUITIES IN THE
DISASTER RELIEF ACT

OUR DECEMBER 1981 REPORT ALSO DISCUSSED AN UNRESOLVED ISSUE CONCERNING INEQUITIES IN THE DISASTER RELIEF ACT OF 1974 WHICH WAS ALSO DISCUSSED IN A PREVIOUS REPORT.

OUR PREVIOUS REPORT (CED-79-97, AUG. 1979) RECOGNIZED THAT THE ACT UNFAIRLY PENALIZES OR REWARDS STATES APPLYING FOR FEDERAL SNOW REMOVAL REIMBURSEMENTS BECAUSE OF DIFFERENCES IN STATE LAWS AND STATES' PREPAREDNESS TO DEAL WITH EMERGENCIES. FOR EXAMPLE, IF A STATE'S CONSTITUTION ALLOWS THE USE OF SURPLUS FUNDS FOR A SNOW EMERGENCY, THAT STATE WOULD NOT BE ELIGIBLE FOR FEDERAL ASSISTANCE IF IT HAD ADEQUATE SURPLUSES. HOWEVER, A STATE WHOSE CONSTITUTION RESTRICTS THE USE OF ITS SURPLUS FUNDS WOULD BE ELIGIBLE FOR FEDERAL ASSISTANCE EVEN THOUGH IT MAINTAINED ADEQUATE SURPLUSES.

FEMA TOOK A NUMBER OF ACTIONS IN RESPONSE TO RECOMMENDATIONS IN OUR EARLIER REPORT BUT TOOK NO ACTION TO ADDRESS THESE INEQUITIES. OUR DECEMBER 1981 REPORT THEREFORE RECOMMENDED THAT THE CONGRESS DIRECT FEMA TO PREPARE A COMPREHENSIVE ANALYSIS OF THE IMPACT OF THESE POTENTIAL INEQUITIES ON FEDERAL DISASTER ASSISTANCE AND SUBMIT A DETAILED PLAN AND LEGISLATIVE CHANGES TO THE CONGRESS TO CORRECT SUCH WEAKNESSES IN THE ACT.

REVIEW OF FEDERAL DISASTER
ASSISTANCE PROVIDED TO
STATE AND LOCAL COMMUNITIES

WE ARE CURRENTLY REVIEWING FEDERAL DISASTER ASSISTANCE PROVIDED TO STATES AND LOCAL COMMUNITIES. WE ARE FINDING A NUMBER OF PROBLEMS. FOR EXAMPLE, WE BELIEVE FEMA NEEDS TO (1) IMPROVE ITS SYSTEM FOR DELIVERING DISASTER ASSISTANCE; AND (2) CHANGE ITS PRACTICE OF REIMBURSING FOR THE RECONSTRUCTION OR REPAIR OF STRUCTURES THAT WERE NOT INSURED.

NEED FOR IMPROVED SYSTEM FOR
DELIVERING DISASTER ASSISTANCE

OUR REVIEW HAS DISCLOSED THAT A GENERAL FEELING OF DISSATISFACTION EXISTS AMONG STATE AND LOCAL RELIEF RECIPIENTS CONCERNING MANY ASPECTS OF FEMA'S ASSISTANCE DELIVERY PROCESS.

IN LARGE MEASURE, THESE CONDITIONS ARE THE RESULT OF PROBLEMS INHERENT IN FEMA'S CURRENT SYSTEM FOR PROVIDING PUBLIC DISASTER ASSISTANCE. FEMA RELIES ON PART-TIME AND TEMPORARY STAFF FROM OTHER FEDERAL AGENCIES AS ONSITE INSPECTORS TO AUGMENT FEMA'S REGIONAL STAFF UNDER THE STRESSFUL CONDITIONS FOLLOWING A DISASTER. THESE PERSONNEL ARE GENERALLY UNFAMILIAR WITH FEMA'S COST REIMBURSEMENT CRITERIA, BUT MUST MAKE MANY IMMEDIATE AND VERY SUBJECTIVE JUDGMENTS REGARDING COMPLICATED COST ELIGIBILITY SITUATIONS. MANY COST ELIGIBILITY DECISIONS ARE SUBSEQUENTLY REVERSED CREATING MUCH DISSATISFACTION AT THE STATE AND LOCAL LEVEL. THE PAPERWORK BURDEN IS ALSO ENORMOUS.

WHILE FEMA CAN HANDLE SOME ASPECTS OF THIS PROBLEM ADMINISTRATIVELY, WE BELIEVE THAT IN THE LONG RUN, PIECEMEAL CHANGES GEARED TOWARD IMPROVING FEMA'S DELIVERY SYSTEM WOULD BE DIFFICULT, EXPENSIVE, AND PROBABLY COUNTERPRODUCTIVE. WE BELIEVE FUNDAMENTAL CHANGES ARE NEEDED. WE ARE PROPOSING A STREAMLINED SYSTEM THAT ACCOMPLISHES THE OBJECTIVE OF PUBLIC DISASTER ASSISTANCE WHILE PERMITTING STATE AND LOCAL APPLICANTS TO EXERCISE SUBSTANTIALLY MORE DISCRETION IN ESTABLISHING PRIORITIES AND ALLOCATING FUNDS TO ALLEVIATE DISASTER-RELATED STATE AND LOCAL PROBLEMS.

SECTION 14 OF S. 2250 WOULD AMEND THE ACT TO PERMIT FEMA TO MAKE CONTRIBUTIONS ON SMALL PROJECTS BASED ON THE FEDERAL ESTIMATE OF NET ELIGIBLE COST.

THIS AMENDMENT, INITIALLY PROPOSED BY FEMA, IS INTENDED TO REDUCE ADMINISTRATIVE BURDEN AND PAPERWORK ON NUMEROUS SMALL PROJECTS COSTING \$25,000 OR LESS. BECAUSE THIS AMENDMENT WOULD STREAMLINE THE PUBLIC DISASTER PROCESS, WE BELIEVE IT SHOULD BE

ENACTED. HOWEVER, WE BELIEVE THAT CONGRESS SHOULD CONSIDER THIS TO BE AN INTERIM STEP, PROGRESSING TOWARD A SYSTEM PERMITTING STATE AND LOCAL APPLICANTS TO EXERCISE MORE COMPLETE DISCRETION IN ALLOCATING DISASTER RELIEF FUNDS, SUCH AS A LUMP SUM DELIVERY SYSTEM.

RECONSTRUCTION OF
UNINSURED STRUCTURES

FEMA'S USUAL PRACTICE IS TO REIMBURSE STATE AND LOCAL APPLICANTS FOR THE RECONSTRUCTION OR REPAIR OF STRUCTURES THAT WERE NOT INSURED. IN SOME INSTANCES, HOWEVER, A DELIBERATE DECISION HAS BEEN MADE BY RESPONSIBLE OFFICIALS NOT TO INSURE, OR TO UNDERINSURE, SUCH PROPERTY.

THE DISASTER RELIEF ACT OF 1974 STIPULATES THAT STATE AND LOCAL GOVERNMENTS BE ENCOURAGED TO PROTECT THEMSELVES BY OBTAINING INSURANCE TO SUPPLEMENT OR REPLACE GOVERNMENT ASSISTANCE. PRESENTLY, STATE AND LOCAL GOVERNMENTS ARE NOT REQUIRED TO BE INSURED AGAINST INITIAL LOSSES TO PROPERTY AS A PREREQUISITE TO RECEIVING DISASTER RELIEF FOR LOSSES. FEMA REQUIRES INSURANCE, IF AVAILABLE, ONLY AFTER DISASTER RELIEF FUNDS HAVE BEEN RECEIVED, AND THEN ONLY IN THE AMOUNT OF THE RELIEF PROVIDED.

THE CONGRESS MAY WANT TO AMEND THE ACT TO REQUIRE THAT, AS A CONDITION FOR RECEIVING FEDERAL PUBLIC DISASTER ASSISTANCE, STATE AND LOCAL GOVERNMENTS HAVE IN FORCE APPROPRIATE HAZARD AND FLOOD INSURANCE AS IS REASONABLY AVAILABLE, ADEQUATE, AND NECESSARY TO PROTECT AGAINST THE LOSS OF PUBLIC BUILDINGS, FACILITIES, AND EQUIPMENT.

THIS CONCLUDES OUR ASSESSMENT OF SEVERAL OF THE MAJOR ISSUES PRESENTED BY THE PROPOSED REVISIONS OF S. 2250. OUR RECENT REPORTS ALSO OFFER OUR RECOMMENDATIONS TO FEMA ON A NUMBER OF ADDITIONAL CONCERNS. WE WILL BE HAPPY TO RESPOND TO YOUR QUESTIONS.

APPENDIX I

APPENDIX I

GAO REPORTS ON THE FEDERAL DISASTERASSISTANCE ACTIVITIES OF THEFEDERAL EMERGENCY MANAGEMENT AGENCYAND OTHER AGENCIESMARCH 1978 TO DECEMBER 1981

<u>REPORT TITLE</u>	<u>ISSUED</u>	<u>REQUESTOR/RECIPIENT</u>
REQUESTS FOR FEDERAL DISASTER ASSISTANCE NEED BETTER EVALUATION (CED-82-4)	12-7-81	THE CONGRESS
INTERIM REPORT ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S ORGANIZATION AND MANAGEMENT SYSTEMS (GGD-82-24)	12-7-81	SENATOR TOWER
POOR CONTROLS OVER FEDERAL AID IN MASSACHUSETTS AFTER THE 1978 BLIZZARD CAUSED QUESTIONABLE BENEFIT PAYMENTS (CED-81-4)	1-26-81	SUBCOMMITTEE ON OVERSIGHT AND REVIEW, HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
FEDERAL DISASTER ASSISTANCE: WHAT SHOULD THE POLICY BE? (PAD-80-39)	6-18-80	SENATE BUDGET COMMITTEE
STATES CAN BE BETTER PREPARED TO RESPOND TO DISASTERS (CED-80-60)	3-31-80	SUBCOMMITTEE ON OVERSIGHT AND REVIEW, HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
FARMERS HOME ADMINISTRATION EMERGENCY LOAN PROCESSING PROCEDURES IN STANISLAUS COUNTY, CALIFORNIA (CED-80-64)	3-3-80	CONGRESSMAN SHUMWAY
IMPROVEMENTS BEING MADE IN FLOOD FIGHTING CAPABILITIES IN JACKSON, MISSISSIPPI AREA (CED-80-36)	12-18-79	SUBCOMMITTEE ON LIMITATIONS OF CONTRACTED AND DELEGATED AUTHORITY, SENATE COMMITTEE ON THE JUDICIARY

APPENDIX I

APPENDIX I

<u>REPORT TITLE</u>	<u>ISSUED</u>	<u>REQUESTOR/RECIPIENT</u>
REVIEW OF FEDERAL DISASTER ASSISTANCE TO TWO LIBRARIES IN PENNSYLVANIA (CED-80-22)	10-31-79	CONGRESSMAN RODINO
FARMERS HOME ADMINISTRATION AND SMALL BUSINESS ADMINISTRATION NATURAL DISASTER LOAN PROGRAMS: BUDGET IMPLICATIONS AND BENEFICIARIES (CED-79-111)	8-6-79	SENATE BUDGET COMMITTEE
FEDERAL SNOW REMOVAL REIMBURSEMENT POLICY: IMPROVEMENTS NEEDED (CED-79-97)	8-2-79	CONGRESSMAN BENJAMIN
ACTION NEEDED TO IMPROVE THE REVIEW OF INSURANCE COVERAGE OF DISASTER VICTIMS RECEIVING FEDERAL ASSISTANCE (CED-79-90)	6-18-79	CONGRESSMAN JONES
DIFFICULTIES IN COORDINATING FARM ASSISTANCE PROGRAMS OPERATED BY THE FARMERS HOME ADMINISTRATION AND SMALL BUSINESS ADMINISTRATION (CED-78-118)	5-25-78	SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, SENATE SELECT COMMITTEE ON SMALL BUSINESS
THE JOHNSTOWN AREA FLOOD OF 1977: CASE STUDY FOR THE FUTURE (CED-78-114)	5-5-78	SENATOR EAGLETON
PROBLEMS WITH THE EMERGENCY FOOD STAMP PROGRAM	3-31-78	ADMINISTRATOR, FOOD AND NUTRITION SERVICE, USDA
ACTIONS NEEDED TO MAKE THE FARMERS HOME ADMINISTRATION'S EMERGENCY LOAN PROGRAM MORE EQUITABLE AND EFFICIENT (CED-78-136)	3-18-78	SECRETARY OF AGRICULTURE



National Governors' Association

Richard A. Snelling
Governor of Vermont
Chairman

Stephen B. Farber
Executive Director

TESTIMONY
OF
Nolan E. Jones
Staff Director
Committee on Criminal Justice
and Public Protection
National Governors' Association
on Behalf of the
Committee Chairman
Governor Robert List
of Nevada

Before the
Subcommittee on Regional and
Community Development
of the
Senate Committee on Environment
and Public Works

April 20, 1982

TESTIMONY REGARDING THE DISASTER RELIEF
ACT AMENDMENTS OF 1982, S. 2250

Mr. Chairman, the National Governors' Association once again appreciates this opportunity to discuss and comment on the Disaster Relief Act of 1974, especially as amended by the Disaster Relief Act Amendments of 1982, S. 2250.

The Association commends the Congress and the Administration, especially the Federal Emergency Management Agency, for their assistance and cooperation with state and local governments during emergencies and disasters. We wish to continue working with you to meet the widely varying citizen and community needs during emergency situations. For it is imperative that all units of government assist citizens in their time of need, especially during disasters and emergencies.

Emergencies, by their very nature, involve elements of the unknown or unexpected and therefore require flexible management systems. Over the years, standardized procedures have evolved for frequently experienced disasters such as floods and hurricanes, but even they require special procedures when they are particularly devastating or affect unusual combinations of victims or facilities (e.g. destruction of prisons, refugee camps or industrial complexes producing dangerous commodities).

Twentieth century society, with the proliferation of hazardous materials, urbanization and new social patterns, transportation and communications sophistication, is creating new disaster hybrids demanding new and heretofore unplanned emergency management reactions and procedures. Three Mile Island is a landmark example of these developments and the fact that management of unfamiliar

disasters is usually traumatic and fraught with potential dangers. In addition, seismic buildup in the central and southeastern U.S. and California poses new dangers of unknown magnitude, and leaking hazardous waste dumps, hazardous materials transportation accidents and the threat of nuclear war pose longterm health hazards of unknown and frightening proportions.

Mr. Chairman, NGA discussed many of these concerns last July during a hearing before this Subcommittee. We would like to repeat some elements of our statement because of our concern with the Disaster Relief Act Amendments of 1982, S. 2250

First, NGA adopted a policy relating to emergencies and disasters at its annual meeting last year which is quite relevant to this discussion. The policy states:

Government at the federal, state and local levels must share in the responsibility for helping citizens deal with emergency and disaster situations. The federal response is through the Federal Disaster Assistance Act (P.L. 93-288), which allows for supplemental assistance to states in presidentially declared disasters.

The administration has recently implemented a 75 percent federal and 25 percent state and local matching formula for "eligible" public disaster assistance costs, although the statute allows for up to 100 percent federal reimbursement for presidentially declared disasters and emergencies.

NGA supports the principle of cost sharing for disaster-related expenses. Several questions regarding the assignment of liability must be explored in more detail, however, before any congressional action is taken to ratify the administration's approach. NGA will not support any fixed cost-sharing formula until the following issues are addressed and resolved:

- State and local governments must know in advance of a disaster which costs are eligible to be shared and which costs are ineligible for federal reimbursement. NGA believes that beyond normal operating expenses, all costs of state and local government in dealing with any declared disaster or emergency should be eligible for federal reimbursement under a joint state-federally determined cost-sharing formula.

- Under any fixed cost-sharing formula, state and local costs incurred prior to a presidential declaration should be eligible for federal reimbursement. States and local units of government spend 100 percent of the cost associated with a disaster prior to designation. According to P.L. 93-288, a state must expend a "reasonable amount" of resources prior to requesting a declaration.

In some cases, resources are seriously depleted by the time a disaster is declared and an additional 25 percent would be difficult, if not impossible, to raise. Therefore, state responsibility for any share of the cost of declared disasters and emergencies should be calculated from the time of onset, not the date of declaration, subject to a final state-federal audit. NGA further believes that a cost-sharing provision should not cover contributions under other federal laws and programs that have a variety of other eligibilities and services.

The development of a cost-sharing proposal must address such basic issues as: how to reasonably limit a state's total liability; whether annual state limits should be set; and the effect of multiple disasters occurring over a short period of time or catastrophic disasters costing billions of dollars on the state and local government share.

NGA believes that the president must be authorized to negotiate and determine appropriate formulas for multiple and catastrophic events. Furthermore, the federal government should not set any guidelines for the state and local division of any portion of a cost-sharing formula.

We encourage Congress and the administration to work with us in developing a reasonable and responsible cost-sharing policy. Until this can be accomplished, NGA is opposed to any federally mandated policy of cost sharing.

Many of the issues raised in the NGA policy are not addressed clearly in S. 2250. For example, in dealing with the issue of catastrophic disasters S. 2250 proposes an interest free loan or advance for two years, after which "such obligations shall bear interest at a rate determined by the Secretary of the Treasury." This is not in the interest of the states that may experience a truly catastrophic disaster. The State of Washington is still dealing with many of the problems created by the Mt. St. Helens disaster. Governor Spellman of that state explained that the costs included:

FEMA Ineligible Costs	\$ 9,000,000
FEMA Eligible Costs	<u>35,000,000</u>
TOTAL	\$44,000,000

FEMA gave the state a strict 75/25 interpretation of the commitment provisions in P.L. 93-288, which meant that they were reimbursed for only 75 percent of the eligible cost (\$26,700,000) and were left with a balance of \$17,900,000 (\$9,000,000 + \$8,900,000). In other words FEMA actually paid only 60 percent of the total costs while the state and local governments paid 40 percent.

There is little proposed in S. 2250 that would have changed this situation. There are some disaster or emergency situations that are so complex that procedures and guidelines cannot be formalized

or standardized. The appropriate handling of these situations must be negotiated and determined in accordance with the circumstances when they occur.

In another instance, Governor Jerry Brown of California explains that his administration identified \$165.7 million in damaged public properties after a major disaster in 1980. FEMA approved \$101.7 million for repairs of facilities deemed eligible under their criteria. State and local governments had to pay the cost of repairs of those properties not deemed eligible by FEMA, which came to approximately 38 percent of the total damage repairs. FEMA's approved amount was considered 100 percent of what they deemed eligible costs. Had the disaster been funded under the 75/25 cost sharing formula and under the same criteria, the state and local governments would have been required to pay 54 percent of the total disaster costs.

Now, Mr. Chairman, some specific comments on S. 2250. Section 316 of the proposed bill would allow the Attorney General of the United States to bring a suit against any party contributing to events resulting in a presidentially-declared disaster or emergency. This seems to be a useful amendment to the statute. However, we would suggest that the U. S. Attorney General work in cooperation with state and local officials in deciding how to dispose of cases resulting from the amendment.

Further, we would caution Congress to assure that the debate on the issue clearly delineates the intent of Congress. For example, is it the intent of Congress that this power be applied against third parties which "cause" disasters or possibly against governmental jurisdictions that fail to mitigate known hazards. Such intent must be clear if we are not to charge at a later date that federal administrators have violated the purpose of this amendment.

S. 2250 fails to address in any significant way the controversies that have arisen previously on the question of state and local commitment. The Federal Emergency Management Agency has not been able to specify satisfactorily what constitutes adequate commitment and has generally been unable to administer this requirement satisfactorily. The states are asked in S. 2250 to continue to accept this confusing situation while at the same time, accepting fixed-ratio cost sharing. This is an entirely unrealistic proposition. Furthermore, S. 2250 does not address other costs to state and local governments that either should be accepted as commitment or deemed eligible for reimbursement.

In conclusion, Mr. Chairman, NGA would like to suggest that Congress, the Administration, and the National Emergency Management Association (which represents the individuals who manage emergencies and disasters for Governors) join together to discuss ways to improve S. 2250. As we indicated earlier, there are parts of this bill that are sound and should be enacted. However, there are sections about which we have some serious questions.

Thank you, Mr. Chairman for giving NGA this opportunity to testify. We will be pleased to respond to any questions that you may have.

Attached: several letters from Governors and their directors of emergency and disaster services concerning S. 2250.



State of Washington

APR 16 1982

JOHN SPELLMAN, Governor

April 13, 1982

OFFICE OF THE GOVERNOR

Nolan E. Jones, Staff Director
Committee on Criminal Justice
and Public Protection
National Governors' Association
444 North Capitol Street
Washington, D.C. 20001

Dear Mr. Jones:

My state Director of Emergency Services, Hugh Fowler, has informed me of amendments to the Disaster Relief Act of 1974 (PL 93-288) proposed under S. 2250. I am unalterably opposed to the unreasonable 75-25 percent cost-sharing requirements imposed by FEMA since the May 1980, Mt. St. Helens disaster. The changes proposed in S. 2250 would legitimize the controversial 75-25 percent requirement and further restrict and reduce benefits under PL 93-288. The present unreasonable requirement would be compounded.

Specifically, I object to the following changes proposed in Sections 405(a) and 406(c) of S. 2250:

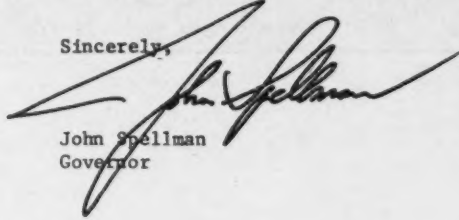
Section 405(a) would limit Federal grants to 75 percent of the net eligible cost to repair, restore, reconstruct or replace public facilities. It also eliminates reimbursement to applicants for additional costs when codes, specifications and standards require improvements. In lieu grants under Section 405(c) would be reduced from 90 to 67 percent of net eligible costs.

Section 406(c) would require the 75-25 percent cost sharing for debris removal work. Debris removal has been classified historically as emergency work. The 75-25 percent cost sharing has not been required before. Since such work is closely associated with Section 403(a)(4), I am strongly against the cost-sharing requirement.

I have written several letters objecting to the controversial 75-25 percent cost-sharing requirement. I am enclosing a copy of a letter sent to Senator Henry Jackson on May 27, 1981, involving changes proposed under HR 2958. The letter explains the adverse impact of the 75-25 percent cost-sharing requirement on Washington State and selected local governments during the Mt. St. Helens disaster.

I believe the administration (FEMA) should be willing to sit down and consider these issues with a select group of representatives from interested states. Perhaps the National Governors' Association could act as a catalyst for such a forum and help to stop arbitrary, ill-conceived legislation from being introduced. This would save all interested states and individuals time and effort.

Sincerely,



John Spellman
Governor

Enclosures

May 27, 1981 letter to Senator Jackson
Senate Bill 2250

cc: Steve Swain, Professional Staff
Senate Subcommittee on Regional
and Community Development
Washington State Congressional Delegation

JOHN SPELLMAN
Governor



HUGH FOWLER
Director

STATE OF WASHINGTON
DEPARTMENT OF EMERGENCY SERVICES

4220 E. Martin Way • Olympia, Washington 98504 • (206) 753-5255

April 12, 1982

Mr. Nolan E. Jones, Staff Director
Committee on Criminal Justice and Public
Protection
National Governors' Association
444 North Capitol Street
Washington, D.C. 20001

Dear Mr. Jones:

Thank you for the opportunity to comment on Senate Bill 2250 (a bill to amend the Disaster Relief Act of 1974). My remarks and suggestions will be limited to the following proposed changes that I view as inequitable to state and local government.

Page 2532

Section 102 (2) (Definition of Major Disaster)

The revised definition appears to rule out man-caused disasters such as catastrophic fixed nuclear facility (FNF) accidents or hazardous material incidents. The phrase "other natural catastrophe" would restrict application of the law to disasters resulting from "natural" events.

I understand from Senator Murkowski's remarks the reason for the change is to prevent application of the Act for social disruptions such as riots and refugee problems. However, I believe it would be a serious mistake to limit application of the Act to the point that FNF or hazardous material accidents could not be covered.

Page 2535

Section 401 (a) (Request for Major Disaster Declaration)

The requirement for a Governor, when making a request, to certify to state and local expenditures seems unnecessary and meaningless if the percentage cost-sharing provisions in sections 405, 406 and 410 apply.

Preliminary damage assessment information, upon which a request is based, often contains unreliable, nonexistent, and incomplete data. If the cost-sharing requirements are to be levied, what purpose does the Governor's certification serve? How can a Governor certify to an amount if the total scope and extent of costs is unknown?

Page 2535

Section 403 (b) (Debris Removal Assistance)

This means that a state or applicant would be required to pay 25 percent of the cost incurred by a federal agency performing emergency debris removal.

Debris removal work has historically been classified as emergency work. The controversial 25 percent cost-sharing requirement imposed by FEMA in 1980 was not applied against the costs for emergency work (debris removal). It appears that FEMA has now adopted the position that debris removal is not emergency work. I find this difficult to understand and strongly disagree with the proposal to apply 25 percent cost sharing.

Page 2536

Section 405 (a) and (b) (Repair and Restoration of Damaged Facilities)

This would limit the federal contribution to 75 percent of the net eligible cost for work.

The key word is "eligible." An analysis of Mt. St. Helens disaster records shows that approximately 15 percent of the costs directly related to disaster recovery efforts are classified as "ineligible" under FEMA rules. This means that grant applicants must pay about 40 percent (ineligible costs plus 25 percent of eligible costs) while FEMA pays about 60 percent. Under what circumstances is this a "reasonable" proportion? For some applicants, it nearly resulted in bankruptcy.

This section also eliminates the FEMA authority to reimburse applicants' costs for complying with applicable codes, specifications and standards. Repair or replacement of an older building or facility may be far more costly because of higher construction standards being required.

Page 2536

Section 405 (e) (In Lieu Contributions)

This would reduce the federal contributions to 67 percent (from 90 percent) of net eligible costs when a state or local government elects to use grant

funds for other approved repair or replacement purposes. The 67 percent limit is questionable.

Page 2536

Section 406 (a) (Debris Removal)

This would limit the federal contributions to 75 percent of net eligible costs for emergency debris removal measures. (See comments under Section 403 (b)).

Page 2536

Section 407 (a) (2) (Temporary Housing)

This states that the President is authorized when he determines it to be in the public interest to provide temporary housing assistance by using federal departments, agencies, etc. Unless the President makes such a determination, states or local governments would be forced to provide the service.

States have been offered the opportunity to provide temporary housing assistance in the past. Few, if any, have organizations and the expertise to administer the program in a timely and efficient manner.

Page 2537

Section 410 (d) (Individual and Family Grants)

Experience has clearly shown that this program cannot be administered for three percent of the total grant program. The 50 percent level may help. However, it will fall short of providing complete and equitable reimbursement for costs received in administering the program.

Page 2539

Section 501 (Emergency Requests)

The requirement for a Governor to certify to state and local expenditures seems unnecessary and meaningless. (See comments under 401 (a)).

It is reasonable to require a statement concerning what the state has done or intends to do to prevent or mitigate the effects of a potential disaster. However, it is inappropriate to expect or require a certification of costs/expenditures when the full extent of damage, loss and suffering is unknown.

Page 2540

Section 503 (a) (Emergency Assistance)

This would require states and/or local governments to pay 25 percent of net eligible costs for debris removal. (See comments under 403 (b)).

In summary, I am not opposed to a reasonable cost-sharing formula. In fact, the state of Washington made percentage (of eligible costs) commitments for 1975 and 1977 disasters. Following is suggested wording that would ensure commitment of a reasonable amount.

"The state and local government obligations and expenditures to alleviate damage, loss, hardship, and suffering shall be 25 percent of the total of those state and local government funds obligated and expended for such purposes unless the President determines that a lesser percentage would be a reasonable expenditure of state and local government funds for such purposes."

The recommended revision would:

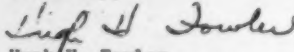
1. Ensure that states and local governments make a reasonable commitment as required by the Act but afford relief by the President in catastrophic disasters when state and local government funding is insufficient.
2. Eliminate the detailed and inconsistent FEMA eligibility criteria, thus saving FEMA, other federal agencies, state and local governments vast sums of needless administrative costs and unnecessary time delays.

I am strongly opposed to the proposed cost-sharing requirement for debris removal work. Such work is almost always necessary to protect property, health and life. Therefore it should be classified as emergency work.

If percentage cost sharing is required, there should be no need for a Governor to certify to a certain level of expenditure.

States should not be forced to assume responsibility for the temporary housing program. Few are capable of performing the mission and costs would likely be higher than if the program was administered by a federal agency.

Sincerely,


Hugh H. Fowler
Director

HHF:bf

cc: Steve Swain, Professional Staff
Senate Subcommittee on Regional
and Community Development

Washington State Congressional Delegation



STATE OF NEW MEXICO
OFFICE OF MILITARY AFFAIRS
CIVIL EMERGENCY PREPAREDNESS DIVISION

FRANKLIN E. MILES
MAJOR GENERAL
DIRECTOR

P.O. Box 4277
SANTA FE 87501
April 15, 1982

RICHARD R. REID
DEPUTY DIRECTOR

Mr. Nolan E. Jones, Staff Director
Committee on Criminal Justice and Public Protection
National Governors' Association
444 North Capitol Street
Washington, D. C. 20001

RE: S2250 Disaster Relief Act, 1974,
Amendments.

Dear Mr. Jones:

The proposed referenced amendments have been reviewed and our comments are attached.

Thank you for the opportunity to provide input on this proposed legislation.

Sincerely,


RICHARD R. REID
Deputy Director

Encl.
a/s

TC/cc

cc: Mr. Steve Swain
Senate Subcommittee on Regional & Community Development

S.2250 Amendments to Disaster Relief Act, 1974.

New Mexico Comments:

A. General.

1. The FEMA role of coordination and management of assistance to the State will be limited significantly by restricting assistance to "Natural" occurrences. A vacuum is created for other events for which direction, coordination, and assistance is not provided for or is eliminated.

2. The magnitude and severity of an occurrence dictates the determination of disaster regardless of the cause. Legislative intent should not be to provide assistance only for specific contingencies, but to assist in the public interest disaster victims - people and the essential needs and functions to protect life and property.

3. An increase burden is placed upon the State to "prove" its commitment, capability and/or ability to resolve an emergency event. Assistance available and response will be delayed. Political subdivisions lack capabilities to rapidly provide such detailed "proof".

4. Hazard mitigation is emphasized but is not supported by appropriations or effective programs.

5. The vesting of most authorities in the Director may need further consideration. The possible creation of Czar could cause unnecessary human suffering and damage.

B. Section 405.

1. A request for federal disaster assistance is a cry for help and should indicate that available resources and capabilities can not cope with the situation. A mandatory limit on federal assistance can seriously deplete available state resources and adversely affect recovery particularly under FEMA cost sharing formula which is not based on actual cost. Establishment of a pre-determined cost will probably assure less than effective recovery.

2. the 75% maximum federal cost share is not acceptable. Participation does not consider actual cost. Resource availability differ between the states. New Mexico's fiscal responsibility to its citizenry will be adversely affected.

3. The reduction of Grant In Lieu of 67% is not acceptable. Assistance is essentially being denied. Applicants will be encouraged to restore in place. Flood Plain Management programs and efforts will be less effective.

4. Environment and hazard mitigation requirements by FEMA will adversely affect State Mitigation efforts. Federal participation applies only to restoration of damage. The state is responsible for all such mitigation costs and must agree to performance before FEMA will approve assistance.

C. Section 318. The State should not be made or held responsible for criminal actions of an applicant or individual and for restitution or restoration of funds misappropriated by such.



COMMONWEALTH of VIRGINIA

State Office of Emergency and Energy Services

H. KIM ANDERSON
State CoordinatorA. E. SLAYTON, JR.
Deputy Coordinator310 TURNER ROAD
RICHMOND, VIRGINIA 23225
(804) 323-2899

April 1, 1982

Mr. Nolan E. Jones, Staff Director
Committee on Criminal Justice
and Public Protection
National Governors' Association
Hall of the States
444 North Capitol Street
Washington, D.C. 20001

Dear Mr. Jones:

This is in response to your memorandum of March 26, 1982 requesting comments on S. 2250, a bill to amend the Disaster Relief Act of 1974.

We are concerned about Section 405 of the proposed bill which limits to 75 percent the Federal share of eligible costs for public disaster assistance, leaving 25 percent to be borne by state and local governments. We believe this amendment would, if adopted in its present form, seriously delay if not completely negate the state and local governments' ability to provide an adequate and timely response to or recovery from a major disaster situation. The bases of our concerns are:

1. S. 2250 takes no account of catastrophic or multiple disaster situations, nor does it give any consideration to state and local government funding limitations or their ability to respond to a fixed percentage of total disaster costs.
2. The proposal to mandate a state and local government share based on a percentage of the total of all Federal, State, and local government costs will be extremely costly and time consuming to administer. It will require state participation in the administration of several additional Federal assistance programs, more extensive recordkeeping and audit procedures, and delay final audit and payment of disaster claims.
3. S. 2250 lacks clarity and provides unbridled flexibility to the Federal administering agency in prescribing which programs are affected and what costs are eligible for reimbursement. Under the current law, the states and local governments are already paying a substantial part of the total cost. These include National Guard and other state and local government agency costs prior to and

following the declaration, administrative and other costs not eligible for reimbursement under the current Federal rules, site preparation for temporary housing, and 25 percent of the costs of the Individual and Family Grant Program.

While we agree that the states and the local governments should bear a reasonable share of these costs, we do not believe that the states or the local governments can cope with a formula that is based on an open-ended fixed percentage of total costs with no upper limit. We believe it is essential that an appropriate ceiling be established for the state and local government share. Factors which should be considered in determining this ceiling include:

1. A percentage of the state budget.
2. The assessed value of real estate in the affected jurisdiction(s).
3. Current indebtedness.
4. Disaster expenditures during the preceding 12 months.

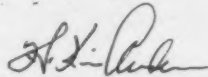
We strongly endorse the proposed change to Section 201(d) which increases the Federal share of the improvement grant from \$25,000 to \$50,000 per annum. This will permit the states and local governments to undertake more extensive and meaningful preparedness and mitigation programs.

We support the intent of the proposed bill to restrict the long-range response and recovery provisions essentially to natural catastrophies, and excluding social and refugee problems. //

We also support the revised temporary housing provisions in Section 407 and the elimination of Title VIII, Economic Recovery for Disaster Areas, for which no Federal funds have ever been appropriated.

Thank you for the opportunity to review and comment on this proposed legislation.

Sincerely,



H. Kim Anderson



STATE OF IDAHO

BUREAU OF DISASTER SERVICES

650 W. STATE
BOISE, IDAHO 83720
334-3460

April 16, 1982

Mr. Nolan E. Jones, Staff Director
Committee on Criminal Justice and
Public Protection
National Governor's Association
Hall of the States
444 North Capitol Street
Washington, D.C. 20001

Dear Mr. Jones:

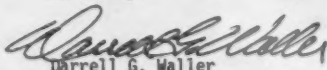
The following comments are provided on S.2250, a bill to amend the Disaster Relief Act of 1974:

Idaho certainly agrees with the stated intent of the law and state and local governments have a responsibility to make a significant contribution to the total disaster recovery effort. It is felt that 25% should be considered the "reasonable amount". Section 401(a) reflects that the reasonable amount will include, but is not limited to "the cost sharing provisions pursuant to sections 405, 406, and 410 of this Act." It is therefore conceivable that the reasonable amount would be more than 25%.

Additionally, under section 405, the federal contribution is limited to "75 per centum of the net eligible cost." FEMA has not changed eligibility criteria and the states/locals significant contribution continues to increase. The federal contribution should be 75 per centum of the actual cost.

Although the proposed changes would make a provision for the President to lend or advance the 25 per centum share because of concurrent, multiple disasters or extraordinary cost, no provision is made for possible loan (or advance) forgiveness. The forgiveness provision would be especially applicable for a catastrophic event.

Sincerely,


Darrell G. Waller
State Coordinator

DW/sb

cc: Mr. Steve Swain
Mr. Charles Ott

EQUAL OPPORTUNITY EMPLOYER



MAJ GEN BILLY M. JONES
DIRECTOR

Georgia Emergency Management Agency

P.O. Box 18055
Atlanta, Georgia 30316
TEL: (404) 656-5500



BILLY A. CLACK
DEPUTY DIRECTOR

Mr. Nolan E. Jones
Staff Director
Committee on Criminal Justice
and Public Protection
National Governors' Association
Hall of the States
444 North Capitol Street
Washington, D.C. 20001

1 April 1982

APR - 5 1982

Dear Mr. Jones:

I have reviewed the bill proposing amendments to the Disaster Relief Act of 1974, and I have some serious concerns about some of the provisions it contains.

The most significant change, and the one that appears to me to be unacceptable, is the restriction of major declaration eligibility and the long-range recovery provisions of the Act to apply to natural catastrophes only. I agree with the exclusion of social disruptions such as civil disturbances or refugee problems; however, it appears that such major man-made disasters as dam failures, aircraft crashes in populated areas, hazardous materials accidents, and radiological emergencies would not be eligible for federal assistance as a major declaration. If this is true, the states would be in an impossible position in terms of the cost of long-range response and recovery. A declared major disaster such as that made after the tragic dam failure at Toccoa, Georgia would apparently not be authorized under the proposed amendment to the 1974 Act.

We have repeatedly expressed our opposition to the 75% federal/25% state-local cost sharing formula in major declarations. Governor Busbee has conveyed this objection to the Georgia Congressional Delegation by letters in October 1980 and again by telegrams in May 1981. Obviously, a disaster of the magnitude of the eruption of Mount Saint Helens in the State of Washington could bankrupt a state government if required to pay for 25% of the recovery cost.

I have no major objections to the other proposed amendments to the Act. On the positive side, I believe the revised definition of the term "emergency" gives the President much more flexibility in responding to any natural or man-made catastrophe. I am also pleased with the proposed increase in the annual disaster assistance improvement grant to the states from \$25,000 to \$50,000.

I appreciate the opportunity to comment on the proposed legislation and will be watching its progress with interest.

Sincerely,

Billy M. Jones
BILLY M. JONES
Major General
Director

STATE OF ALASKA

DEPARTMENT OF MILITARY AFFAIRS

ALASKA DIVISION OF EMERGENCY SERVICES

JAY S. HAMMOND, GOVERNOR

P.O. BOX 2267
PALMER, ALASKA 99645

April 7, 1982

APR 14 1982

Mr. Nolan E. Jones
Staff Director
Committee on Criminal Justice
and Public Protection
National Governor's Association
Hall of the States
444 North Capitol Street
Washington, D.C. 20001

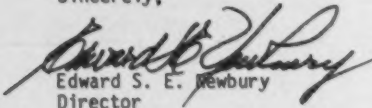
Dear Mr. Jones:

The following is Alaska's comments on S.2250, a bill to Amend the Disaster Relief Act of 1974:

It is the continuing Alaskan position that State and local governments have the responsibility to make a "significant contribution" to the total effort necessary to recover from the damage caused or threatened by a catastrophe of major proportion.

Alaska concurs in the effort to simplify the defining of what constitutes a "significant contribution" as a numerical percentage of the costs; HOWEVER, that stated percentage should be stated as it is in the "Individual and Family Grant Program" (44CFR Part 205) i.e., "The total Federal grant under this section will be equal to 75 percent of the actual cost....." Alaska does not concur with the proposed amendment that ties the percentage to an arbitrary set of rules i.e., "net eligible cost," when the rules of which costs are eligible and which are not is totally controlled and established by a Federal agency (FEMA) without input from the States and without Congressional supervision.

Sincerely,



Edward S. E. Newbury
Director

ESEN:wc

NEMA

national emergency management association

April 2, 1982

Mr. Nolan Jones, Staff Director
Committee on Criminal Justice and
Public Protection
National Governors' Association
444 North Capitol Street
Washington, D.C. 20001

APR - 6 1982

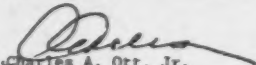
Dear Nolan:

Pursuant to your request and a similar letter from Lee Thomas, I have asked our staff to review and comment on the proposed changes submitted as part of S-2250 (Amendment to the Disaster Relief Act of 1974). As a matter of principle, I feel the subject of state and local participation has been handled in almost a frivolous manner.

The Governors of the various states have repeatedly urged the Congress and Executive Branch in making changes to federal/state/local participation in disasters to specifically indicate not only the areas and amounts of expected participation but identify what can be considered eligible for inclusion and what can not be. There is a failure to address this in the Bill, and equally importantly to address the fact that a time frame for publication of appropriate CFR revisions, to include this clarification, is not mentioned. Frankly, this Bill will do more to confuse and disrupt the circumstances around federally directed emergencies than exists with the present situation. Without further clarification of definitions and requirements, or for regulations which do indicate such clarification, this measure is a poor substitute for what presently exists.

The increase to \$50,000 in the Improvement Grant shines out like a bright star in the entire measure. The inclusion of a formula for addressing additional federal participation in administrative costs has its value lost when verbiage such as "demonstrates efficiency by promptly completing" is used. This trail throughout the amendment of inconclusive and substantially interpretive language would certainly support my contention of the frivolity of the proposed amendment.

Sincerely,


Charles A. Ott, Jr.
President

Enclosures

PRESIDENT
CHARLES A. OTT, JR., DIRECTOR
DIVISION OF EMERGENCY SERVICES
5636 E. McDOWELL ROAD
PHOENIX, ARIZONA 85008
RSJ:JTS:WES

SECRETARY
SAMUEL G. WOOD, DEPUTY DIRECTOR
DIVISION OF EMERGENCY PREPAREDNESS
P.O. BOX C-388
TOPEKA, KANSAS 66601
913-233-9253

TREASURER
C. L. GILBERTSON, ADMINISTRATOR
DIVISION OF DISASTER & EMERGENCY SERVICES
P.O. BOX 4789
HELENA, MONTANA 59601
406-449-3034



GEORGE NIGH
Governor

OKLAHOMA CIVIL DEFENSE
SEQUOYAH-WILL ROGERS BUILDINGS
POST OFFICE BOX 53365
OKLAHOMA CITY, OKLAHOMA 73152
405/521-2481

April 13, 1982



NORRIS PRICE
State Director

APR 15 1982

Mr. Nolan E. Jones, Staff Director
Committee on Criminal Justice and Public Protection
National Governors' Association
Hall of the States
444 North Capitol Street
Washington, D.C. 20001

Re: Hearing on Disaster Relief Act
Amendments of 1982

Dear Mr. Jones:

Much of the uncertainty and expenses of reaching a determination as to the eligibility of some given amount of damage for federal disaster assistance could be avoided by keying a disaster declaration to some "inbeing formula".

For instance, for many communities 500 or 600% of their revenue sharing eligibility for the past 12 months would constitute the threshold for federal disaster assistance.

Second, as presently envisioned and operated, all assistance under Public Law 93-288, including public assistance, is handled in a method all too similar to welfare. I submit that every political entity from which the federal government derives taxes is an element of our government's production and wealth and should be maintained. It is as important for the federal government to repair its elements of production as it is for General Motors or any other manufacturer to repair its elements of production.

Sincerely,

Norris Price

Christopher S. Bond
Governor

Charles M. Kiefner
Major General (MO)
The Adjutant General

William R. Beaty
Director



STATE OF MISSOURI

DISASTER PLANNING & OPERATIONS

1717 Industrial Drive — P.O. Box 116
Jefferson City, Missouri 65102
Phone 314 — 751-3321

APR 12 1982

MEMORANDUM

TO: National Governor's Association
ATTN: Nolen E. Jones, Staff Director
Committee on Criminal Justice and Public Protection

FROM: William R. Beaty, Director *WRB*
Disaster Planning & Operations

RE: S.2250. A bill to Amend the Disaster Relief Act of 1974

DATE: April 7, 1982

The Disaster Relief Act as it presently is written and interpreted is little more than an extension of the welfare program, as far as the individual is concerned, and could be accomplished by that department following procedures now practiced by the Department of Agriculture and the Small Business Administration when disasters occur.

Present regulations all but rule out a disaster declaration for publicly owned facilities unless the disaster also involves "people problems". The original intent of the act was to provide federal assistance when a disaster exceeded the capabilities of the state and local government. No mention was made of the need for people related problems. The term "Impact" on the community has been used as a determining factor. I submit that if we continue to follow that line of reasoning that most disasters occurring in metropolitan areas would not qualify due to the tremendous resources (financial and other) they possess as compared with a small community.

The proposed bill will include additional types of disasters to be covered and broader coverage. The current application of the act doesn't cover present types such as snowstorms and limited disasters.

On page 2532, second column, Title III, Sec. 201, d. The maximum amount for the Improvement Grant has been raised from \$25,000 to \$50,000 which could greatly benefit this office by hiring another planner.

TESTIMONY

OF

Mr. Robert S. Wilkerson

on behalf of the •

National Emergency Management Association

NATIONAL EMERGENCY MANAGEMENT AGENCY

Congressional Testimony Regarding Senate Bill 2250

S. 2250 includes many proposed changes and additions to PL 93-288. In view of the diversity, significance and number of changes proposed, the National Emergency Management Association believes the purposes of this disaster legislation would be better served by repeal of Public Law 93-288 and adoption of new legislation, in lieu of the amendments submitted. As presented, S. 2250 would not eliminate many of the problems experienced under Public Law 93-288 and would produce an entirely new crop of problems and controversy.

S. 2250 would make cost sharing (at a fixed ratio of 75-25) a part of the law and, as best we can determine, allow no exceptions (beyond an altogether unsatisfactory and unreasonable loan program) for truly catastrophic disasters. This particularly rigid approach would deny the fact of broad differences among disasters and their impact on states and local jurisdictions. If cost sharing is considered essential, as it apparently is, it should incorporate sufficient flexibility to deal realistically with the legitimate issues and problems encountered by state and local governments. After all, such legislation is intended to help reduce problems; not to cause new problems or to punish applicants for assistance.

S. 2250 addresses the question of commitment in a fashion that disregards the significance of the issue. This question, which

has caused major controversy in the past, has been addressed frivolously. Under this proposal, commitment requirements would be established for both emergency and major disaster declarations. Under Public Law 93-288 the requirement applied only to major disaster requests. We do not understand the rationale for this change. If the emergency declaration capability is indeed intended to save lives, to protect property and the public safety and to avert the threat of disaster, none of us would have time to participate in the inevitable administrative requirements of commitment.

Further, if this proposal is adopted we face the prospect of meeting highly unspecific commitment requirements as well as the cost sharing requirement. This policy, in effect, adds insult to injury for the disaster stricken state. It implicitly reflects an opinion that states who request disaster assistance are, in every case, attempting to shift responsibilities to the federal government. That is not the case.

We strongly support the proposal to raise the limit of the state plans improvement grant to \$50,000.00. For several years many states have exceeded the previous state match. This change will do much to support expanded emergency planning activities and will produce excellent results.

S.2250 poses a formula to allow increased reimbursement for the administrative costs of the Individual and Family Grant Program. This proposal, as presented, is meaningless since such terms as "...demonstrates efficiency by promptly completing..." are vague and are subject to capricious and arbitrary interpretation.

We support the proposals regarding recovery of funds and audits and investigations. These elements would clarify points which have been particularly troublesome in the past. They would also establish a needed legal basis for action to force culpable parties to make restitution for actions or omissions that result in emergency or major disaster declarations. However, it is interesting to note this addition when other proposals would restrict action to natural catastrophes, for which it seems no culpable party is likely to be found.

S.2250 would remove prohibitions from discrimination on the basis of economic status. While this proposal is understandable, it is not entirely appropriate. It will have the effect, of making these disaster programs into welfare programs, either in reality or in the public perception. Further, it will add significantly to the administrative procedures necessary to implement these programs. This step should not be taken without careful study of the probable results.

In view of the controversy over application of Public Law 93-288 authorities for events other than natural disasters, it is not surprising to find that S.2250 amends the definition of major disaster. Yet it is puzzling that the proposed definition of emergency does not include this natural catastrophe requisite. This difference is perhaps intentional, but as stated leaves room for confusion and controversy.

S.2250 fails to address elements of state and local commitment that can be imposed as conditions of project application approval. For example, costs incurred for mitigation efforts

required by FEMA are not allowed for reimbursement, nor are they approvable as state and local commitment. In addition, the costs of program administration audit and similar items are not considered. This policy establishes unjustifiable hardships for state and local government and could require them to accept, without question, unknowable expenditures of increasingly scarce funds.

In summary, S.2250 raises at least as many questions as it answers. It fails to address many of the issues that have been troublesome in previous implementations of Public Law 93-288. We believe that extensive additional consideration is needed before these proposals are adopted. Furthermore, we believe that the Federal Emergency Management Agency and appropriate Congressional staff members should work with selected ~~state~~ state representatives to draft a substitute for S.2250 or to prepare draft legislation to replace Public Law 93-288 in its entirety.

Statement by:



National Association of Counties

Offices • 440 First Street, N.W.

Washington, D.C. 20001 • Telephone (202) 393-6226

Bernard F. Hillenbrand, Executive Director

STATEMENT OF
THE NATIONAL ASSOCIATION OF COUNTIES
TO THE
SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT

ON THE
DISASTER RELIEF ACT OF 1974

BY
HERBERT C. JONES
ASSOCIATE DIRECTOR

APRIL 20, 1982
WASHINGTON, D. C.

STATEMENT BY THE NATIONAL ASSOCIATION OF COUNTIES,* TO THE SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT, ON THE DISASTER RELIEF ACT OF 1974

THE NATIONAL ASSOCIATION OF COUNTIES IS CONCERNED ABOUT THE CURRENT FEDERAL POLICY OF REQUIRING A 25 PERCENT NON-FEDERAL MATCHING CONTRIBUTION FOR PUBLIC ASSISTANCE PROJECTS UNDER THE DISASTER RELIEF ACT OF 1974. WHILE WE SHARE THE CONCERN OF THE ADMINISTRATION AND CONGRESSIONAL LEADERS WHO ARE ATTEMPTING TO RESTRAIN FEDERAL SPENDING, WE FEEL THAT CURTAILING DISASTER RELIEF FUNDS TO THIS EXTENT VIOLATES THE SPIRIT OF THE ACT AND IS AN INAPPROPRIATE RESTRAINT ON FEDERAL FUNDING AT A TIME WHEN IT IS MOST NEEDED BY LOCAL GOVERNMENTS.

THIS CURTAILMENT OF FUNDS IS INAPPROPRIATE FOR SEVERAL REASONS:

- MOST EMERGENCY PREPARATION RESPONSE AND RECOVERY IS PROVIDED BY COUNTY AND LOCAL GOVERNMENTS ROUTINELY WITHOUT FEDERAL REIMBURSEMENT. ONLY WHEN AN EXTRAORDINARY EMERGENCY REACHES DISASTER PROPORTIONS AND IS DECLARED ACCORDINGLY BY THE PRESIDENT DOES A LOCAL GOVERNMENT BECOME ELIGIBLE FOR FEDERAL ASSISTANCE. A DISASTER IS DECLARED ONLY WHEN THE DAMAGE FAR EXCEEDS LOCAL CAPABILITY TO REPAIR.
- MANY COUNTIES AND LOCAL GOVERNMENTS DO NOT HAVE THE FISCAL CAPACITY TO CONTRIBUTE 25 PERCENT TO THE COST OF DAMAGE REPAIRS. DAMAGE COSTS HAVE INCREASED WITH INFLATION, BUT THE LOCAL REVENUE BASE REMAINS INFLEXIBLY TIED TO PROPERTY TAXES. FEW COUNTIES CAN RAISE THE \$1 MILLION PER \$4 MILLION OF DAMAGE COSTS REQUIRED BY THE 75/25 PERCENT COST-

*THE NATIONAL ASSOCIATION OF COUNTIES IS THE ONLY NATIONAL ORGANIZATION REPRESENTING COUNTY GOVERNMENT IN THE UNITED STATES. THROUGH ITS MEMBERSHIP, URBAN, SUBURBAN AND RURAL COUNTIES JOIN TOGETHER TO BUILD EFFECTIVE, RESPONSIVE COUNTY GOVERNMENTS. THE GOALS OF THE ORGANIZATION ARE: TO IMPROVE COUNTY GOVERNMENT; TO SERVE AS THE NATIONAL SPOKESMAN FOR COUNTY GOVERNMENTS; TO ACT AS A LIAISON BETWEEN THE NATION'S COUNTIES AND OTHER LEVELS OF GOVERNMENT; AND TO ACHIEVE PUBLIC UNDERSTANDING OF THE ROLE OF COUNTIES IN THE FEDERAL SYSTEM.

SHARING FORMULA. IT IS UNREALISTIC TO ASSUME THAT THE STATES WILL VOLUNTEER TO APPROPRIATE A SUBSTANTIAL SHARE OF THE NON-FEDERAL SHARE.

--COUNTY AND LOCAL GOVERNMENTS SUSTAIN DAMAGE COSTS EVEN WHEN 100 PERCENT PUBLIC ASSISTANCE IS PROVIDED BY FEMA UNDER THE DISASTER RELIEF ACT. THE LONG LIST OF COSTS THAT ARE INELIGIBLE ITEMS, BUT RELATED TO DISASTER DAMAGES, CAUSES MOST COUNTIES TO CONTRIBUTE 15-20 PERCENT OR MORE ALREADY. ADDING ANOTHER 25 PERCENT REQUIREMENT ON TOP OF THESE COSTS MAKES THE LOCAL CONTRIBUTION MORE THAN SUBSTANTIAL AND MORE THAN THEY CAN BE EXPECTED TO PAY UNDER EXISTING FISCAL CONSTRAINTS.

FROM THE RECORD OF DECLARED DISASTERS OVER THE LAST SIX YEARS, WE KNOW THAT OVER \$530 MILLION IS REQUIRED ANNUALLY, FROM FUNDS APPROPRIATED UNDER THE DISASTER RELIEF ACT, TO MEET THE MOST DIRE NEEDS OF THOSE LOCALITIES STRICKEN BY THE MOST SERIOUS DISASTERS. THE ADMINISTRATION IS REQUESTING ONLY \$325 MILLION FOR FISCAL YEAR 1982. WE QUESTION THE ADEQUACY OF SUCH A REQUEST BASED ON PRIOR YEAR EXPERIENCES. WE CAN ONLY CONCLUDE THAT, IN MANY CASES, THE FEDERAL MATCH WILL BE LESS THAN 75 PERCENT AND THAT THE DIFFERENCE WILL BE MADE UP MAINLY BY LOCAL GOVERNMENTS AFTER IT IS DETERMINED THAT THEY HAVE EXCEEDED THE LOCAL RESOURCES AVAILABLE TO COPE WITH THE DISASTER DAMAGE.

WE RECOGNIZE THAT FEDERAL FUNDS ARE ALSO LIMITED, AND THAT MUCH DISCRETION LIES IN THE HANDS OF FEMA TO ALLOCATE FUNDS TO THOSE JURISDICTIONS WHICH ARE MOST IN NEED. THE LEAST THAT COULD BE DONE IS TO EXTEND THIS RANGE OF DISCRETION TO ALLOW 100 PERCENT FUNDING FOR PUBLIC ASSISTANCE PROJECTS THAT HELP RESTORE BASIC LOCAL GOVERNMENT SERVICES AND SPEED THE RECOVERY OF LOCAL COMMUNITIES FROM DISASTER INCIDENTS.

ESTIMATING THE COST OF REPLACING DAMAGED OR DESTROYED PUBLIC FACILITIES ON THE BASIS OF DESIGN, WILL ONCE AGAIN EXACERBATE LOCAL PROBLEMS. FULL CONSIDERATION SHOULD BE GIVEN TO INCLUDING THE CURRENT VALUE OF THE FACILITY IN QUESTION AND THE EXTENT, BASED ON PRIOR EXPENDITURES CAUSED BY THE DISASTER, THAT LOCAL GOVERNMENTS COULD AFFORD TO PROVIDE THE RESOURCES NECESSARY TO REPLACE THAT STRUCTURE.

FOR EXAMPLE, IN WASHINGTON STATE, AFTER THE MOUNT SAINT HELENS DISASTER, COUNTIES SUSTAINED A SUBSTANTIAL PORTION OF THE DAMAGE. OUT OF \$25 MILLION DAMAGE COSTS INCURRED BY COUNTY GOVERNMENTS TO CLEAN UP AFTER THE VOLCANO ERUPTION, ABOUT 68 PERCENT WAS CONTRIBUTED BY DISASTER RELIEF FUNDS THROUGH FEMA, 22 PERCENT WAS PROVIDED AS LOCAL MATCH FOR THESE FUNDS AND ANOTHER 10 PERCENT WAS CONSIDERED INELIGIBLE FOR FEDERAL REIMBURSEMENT AND HAD TO BE ABSORBED BY LOCAL BUDGETS. THEREFORE, THE TOTAL CONTRIBUTED BY COUNTY REVENUE SOURCES WAS ABOUT 32 PERCENT WITH MINIMAL CONTRIBUTION FROM THE STATE GOVERNMENT. ON TOP OF THE LOSS OF REVENUE SUFFERED BY THESE 15 COUNTIES IN WASHINGTON STATE, THEY HAD TO COME UP WITH NEARLY \$8.5 MILLION FOR CLEAN-UP OPERATIONS. ADDITIONAL FUNDS WERE NEEDED TO REPAIR FACILITIES AND EQUIPMENT, PARTICULARLY IN COMLITZ COUNTY.

NACO URGES THE MEMBERS OF THE SUBCOMMITTEE TO ALLOW A FLEXIBLE POLICY ON COST-SHARING FOR PUBLIC ASSISTANCE DISASTER RELIEF PROJECTS. REIMBURSEMENT SHOULD BE ALLOWED FOR UP TO 100 PERCENT OF ELIGIBLE COSTS. CONSIDERATION SHOULD ALSO BE GIVEN TO CHANGING SOME OF THE INELIGIBLE COSTS, SUCH AS ADMINISTRATIVE OVERHEAD, AND DAMAGE SURVEY REPORTS, TO ELIGIBLE COSTS AND NOT WAIVED AS WOULD BE DETERMINED FROM THE INABILITY TO MEET CONDITIONS AS STATED IN THE ACT.

WE APPRECIATE THIS OPPORTUNITY TO EXPRESS OUR VIEWS AND THE INTERESTS OF COUNTY GOVERNMENTS ON THIS IMPORTANT TOPIC.

97TH CONGRESS
2D SESSION

S. 2250

To amend the Disaster Relief Act of 1974, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 22 (legislative day, FEBRUARY 22), 1982

Mr. MURKOWSKI (for himself, Mr. STAFFORD, Mr. RANDOLPH, and Mr. BURDICK) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Disaster Relief Act of 1974, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Disaster Relief Act
4 Amendments of 1982".

5 SEC. 2. The short title of the Disaster Relief Act of
6 1974 (P.L. 93-288) is hereby amended by deleting the words
7 "Disaster Relief" and inserting in lieu thereof "Major Disas-
8 ter Relief and Emergency Assistance".

1 SEC. 3. (a) Section 102(1) of the Disaster Relief Act of
2 1974, as amended (42 U.S.C. 5122(1)), is amended to read
3 as follows:

4 "(1) 'Emergency' means any occasion or instance for
5 which, in the determination of the President, Federal assist-
6 ance is needed to supplement State and local efforts and ca-
7 pabilities to save lives and to protect property, public health
8 and safety or to lessen or avert the threat of a catastrophe in
9 any part of the United States."

10 (b) Section 102 is further amended by adding to the end
11 thereof:

12 "(8) 'Director' means the Director of the Federal Emer-
13 gency Management Agency."

14 SEC. 4. Title VIII of the Public Works and Economic
15 Development Act of 1965, as amended (Public Law 89-136;
16 42 U.S.C. 3231-3236), is hereby repealed, and title V of the
17 Disaster Relief Act of 1974, as amended (Public Law 93-
18 288), is hereby amended to read as follows:

19 "TITLE V—FEDERAL EMERGENCY ASSISTANCE

20 PROGRAMS

21 "PROCEDURES

22 "SEC. 501. All requests for a determination by the
23 President that an emergency exists shall be made by the
24 Governor of the affected State. Such request shall be based
25 upon the Governor's finding that the situation is of such se-

1 verity and magnitude that effective response is beyond the
2 capabilities of the State and the affected local governments
3 and that Federal assistance is necessary. The Governor's re-
4 quest will furnish information describing State and local ef-
5 forts and resources which have been or will be used to allevi-
6 ate the emergency, and will define the type and extent of
7 Federal aid required. As a part of this request, and as a pre-
8 requisite to emergency assistance under the Act, the Gover-
9 nor shall take appropriate action under State law and direct
10 execution of the State's emergency plan. He shall furnish
11 information on the extent and nature of State resources
12 which have been or will be used to alleviate the conditions of
13 the emergency, and shall certify that for the current emer-
14 gency, State and local government obligations and expendi-
15 tures (of which State commitments must be a significant pro-
16 portion) will constitute the expenditure of a reasonable
17 amount of the funds of such State and local governments for
18 alleviating the damage, loss, hardship, or suffering resulting
19 from such emergency. Based upon such Governor's request,
20 the President may declare that an emergency exists.

21 "FEDERAL ASSISTANCE

22 "SEC. 502. In any emergency, the President may—

23 "(a) direct any Federal agency without reimburse-
24 ment to utilize its authorities and the resources granted
25 to it under other Acts, including but not limited to per-

1 sonnel, equipment, supplies, facilities, and managerial,
2 technical and advisory services in support of State and
3 local emergency assistance efforts to save lives and to
4 protect property, public health and safety or to lessen
5 or avert the threat of a catastrophe;

6 “(b) coordinate all Federal agencies and voluntary
7 relief of disaster assistance organization providing
8 emergency assistance, and coordinate emergency as-
9 sistance with State and local officials; and

10 “(c) provide technical and advisory assistance to
11 affected State and local governments in the perform-
12 ance of essential community services, warning of risks
13 of hazards, public information and assistance in health
14 and safety measures, management and control, and re-
15 duction of immediate threats to public health and
16 safety.

17 “EMERGENCY ASSISTANCE

18 “SEC. 503. (a) In an emergency, when the Federal as-
19 sistance provided pursuant to section 502 of this title is inad-
20 equate, the President may provide assistance to save lives
21 and protect property, public health and safety, or to lessen or
22 avert the threat of a catastrophe. Where debris removal as-
23 sistance is appropriate under this section, it shall be provided
24 in accordance with the terms and conditions of section 406 of
25 this Act.

1 “(b) The President, in an emergency, shall not obligate
2 funds appropriated to carry out this Act, other than for pur-
3 poses of coordination and direction or the provision of techni-
4 cal and advisory assistance, where Federal assistance is
5 available and adequate under other Federal authorities.

6 “(c) In any emergency and except as provided by sub-
7 section (d) of this section, the costs of providing emergency
8 assistance shall not exceed \$5,000,000 of funds appropriated
9 to carry out this Act.

10 “(d) The limitation of subsection (c) of this section may
11 be exceeded when the President determines that continued
12 emergency assistance is immediately required; that there is a
13 continuing and immediate risk to lives, property, public
14 health or safety; and that necessary assistance will not other-
15 wise be provided on a timely basis. In the event that the
16 limitations of subsection (c) are exceeded, the President shall
17 report to Congress on the nature and extent of the emergen-
18 cy assistance requirements and propose additional legislation
19 if necessary.”.

20 SEC. 5. Section 102(2) of the Disaster Relief Act of
21 1974, as amended (42 U.S.C. 5122(2)), is amended by:

22 (1) adding the word “natural” between the words
23 “other” and “catastrophe”; and

24 (2) striking the words “above and beyond emer-
25 gency services by the Federal Government,”.

1 SEC. 6. Title II of the Disaster Relief Act of 1974, as
2 amended (42 U.S.C. 5131-5132), is amended by:

3 (1) striking the words "(including the Defense
4 Civil Preparedness Agency)" in section 201(a);

5 (2) adding the words "including evaluations of
6 natural hazards and development of the programs and
7 actions required to mitigate such hazards," between
8 the words "plans," and "except" in section 201(d);

9 (3) striking "\$25,000" in section 201(d) and in-
10 serting in lieu thereof "\$50,000"; and

11 (4) adding a new section 203 as follows:

12 "AUTHORIZATION OF APPROPRIATIONS

13 "SEC. 203. There is authorized to be appropriated to
14 the Federal Emergency Management Agency such sums as
15 may be necessary to carry out the purposes of this title
16 through the close of September 30, 1985."

17 SEC. 7. Title III of the Disaster Relief Act of 1974, as
18 amended (42 U.S.C. 5141-5158), is amended by:

19 (1) deleting sections 301, 305, and 306 and re-
20 numbering subsequent sections appropriately;

21 (2) deleting the caption "FEDERAL ASSISTANCE"
22 of section 302 and inserting in lieu thereof "RULES
23 AND REGULATIONS";

24 (3) deleting the first and second sentences of sub-
25 section (a) of section 302; and

1 (4) deleting “, or economic status” in the second
2 sentence of section 311(a).

3 SEC. 8. Section 303(a) of the Disaster Relief Act of
4 1974, as amended (42 U.S.C. 5143(a)), is amended as fol-
5 lows:

6 “(a) Unless otherwise directed by the President, follow-
7 ing the declaration of an emergency or a major disaster, the
8 Director or his designee shall become the Federal coordinat-
9 ing officer to operate in the affected area. The Federal co-
10 ordinating officer shall represent the President in coordinat-
11 ing the emergency or the major disaster response and recov-
12 ery effort.”.

13 SEC. 9. Section 307 of the Disaster Relief Act of 1974,
14 as amended (42 U.S.C. 5147), is amended by adding “(a)”
15 after “307.” and by inserting a new subsection “(b)” as fol-
16 lows:

17 “(b) Any funds received as reimbursement for advances,
18 overpayments, or payments for property and services pursu-
19 ant to this Act shall be deposited to the credit of the appro-
20 priation or appropriations currently available for the purposes
21 of this Act.”.

22 SEC. 10. Section 315 of the Disaster Relief Act of
23 1974, as amended (42 U.S.C. 5155), is amended by adding a
24 new subsection “(d)” as follows:

1 “(d) Federal disaster assistance and comparable disaster
2 assistance provided by States, local governments, and disas-
3 ter assistance organizations to individuals and families shall
4 not be considered as income or a resource when determining
5 eligibility or benefit levels for federally funded income assist-
6 ance or resource tested benefit programs.”.

7 SEC. 11. Section 316 of the Disaster Relief Act of
8 1974, as amended (42 U.S.C. 5156), is amended by adding
9 “(a)” after “316.” and a new subsection “(b)” as follows:
10 “(b) The President shall report to the Committee on En-
11 vironment and Public Works of the Senate and the Commit-
12 tee on Public Works and Transportation of the House on
13 each major disaster or emergency that he has declared.”.

14 SEC. 12. (a) Title III of the Disaster Relief Act of
15 1974, as amended (42 U.S.C. 5141-5188), is amended by
16 adding at the end thereof four new sections as follows:

17 “PROTECTION OF ENVIRONMENT

18 “SEC. 315. No action taken or assistance provided pur-
19 suant to section 403, 406, 502, or 503 of this Act, or any
20 assistance provided pursuant to section 405 of this Act that
21 has the effect of restoring facilities substantially as they exist-
22 ed prior to the disaster, shall be deemed a major Federal
23 action significantly affecting the quality of the human envi-
24 ronment within the meaning of the National Environmental
25 Policy Act of 1969 (83 Stat. 852). Nothing in this section

1 shall alter or affect the applicability of the National Environ-
2 mental Policy Act of 1969 (83 Stat. 852) to other Federal
3 actions taken under this Act or under any other provision of
4 law.

5

“RECOVERY OF FUNDS

6 “SEC. 316. The Attorney General of the United States
7 is authorized to institute actions in the United States District
8 Court for the district in which an emergency or major disas-
9 ter occurred, or in such district as otherwise provided by law,
10 against any party whose acts or omissions may in any way
11 have caused or contributed to the damage or hardship result-
12 ing in a Presidential declaration pursuant to this Act. Upon
13 the showing that an emergency or major disaster or the asso-
14 ciated damage or hardship was caused in whole or in part by
15 an act or omission of such party, then such party shall be
16 liable to the United States for the full amount of Federal
17 expenditures made to alleviate the suffering or damage at-
18 tributable to such act or omission. The authority of this sec-
19 tion shall also apply to the recovery of Federal funds expend-
20 ed under the authority of section 419 of this Act for fire
21 suppression.

22

“AUDITS AND INVESTIGATIONS

23 “SEC. 317. (a) The Director, when deemed necessary to
24 assure compliance with any provision of this Act or related
25 regulations, shall conduct audits and investigations and in

1 connection therewith may enter such places and inspect such
2 records and accounts and question such persons as deemed
3 necessary to determine the facts relative thereto.

4 “(b) The Director, when deemed necessary to assure
5 compliance with any provision of this Act or related regula-
6 tions, may require audits by State and local governments in
7 connection with assistance provided under the Act.

8 “(c) The Director and the Comptroller General of the
9 United States, or any of their duly authorized representa-
10 tives, shall have access for purpose of investigation, audit,
11 and examination to any books, documents, papers, and rec-
12 ords of any person or entity relating to any activity or pro-
13 gram undertaken pursuant to this Act.

14 “CRIMINAL AND CIVIL PENALTIES

15 “SEC. 318. (a) Any person, organization, or other entity
16 who knowingly makes a false statement or representation of
17 a material fact, or who knowingly fails to disclose a material
18 fact, in any application or other document in connection with
19 a request for assistance under this Act, or who knowingly
20 falsifies or withholds, conceals, or destroys any documents,
21 books, records, reports, or statements upon which such re-
22 quest for assistance is based, shall be fined not more than
23 \$10,000 or imprisoned for not more than one year, or both,
24 for each violation.

1 “(b) Any person, organization, or other entity who
2 knowingly makes a false statement or representation of a ma-
3 terial fact, or who knowingly fails to disclose a material fact,
4 in any bill, invoice, claim, or other document requesting reim-
5 bursement for work or services performed in connection with
6 assistance provided under this Act, or who knowingly falsifies
7 or withholds, conceals, or destroys any documents, books,
8 records, reports, or statements upon which such request for
9 reimbursement is based, shall be fined not more than \$10,000
10 or imprisoned for not more than one year, or both, for each
11 violation.

12 “(c) Whoever knowingly misapplies the proceeds of a
13 loan or other cash benefit obtained under any section of this
14 Act shall be subject to a fine in an amount equal to one and
15 one-half times the original principal amount of the loan or
16 cash benefit.

17 “(d) Whoever knowingly violates any order, rule, or
18 regulation issued under this Act shall be subject to a civil
19 penalty of not more than \$10,000 for each violation.

20 “(e) Civil penalties provided under this section shall be
21 imposed in accordance with rules and regulations promulgat-
22 ed by the Director pursuant to the authority in section 601 of
23 this Act.

24 “(f) Whenever it shall appear that any person has vio-
25 lated or is about to violate any provision of this Act, includ-

1 ing rules and regulations issued and civil penalties imposed,
2 the Attorney General may bring a civil action for such relief
3 as may be appropriate. Such action may be brought in the
4 district court of the United States having jurisdiction where
5 the violation occurred or, at the option of the parties, in the
6 United States District Court for the District of Columbia.

7 “(g) The Director, or duly authorized representative of
8 the Director, shall expeditiously refer to the Attorney Gener-
9 al of the United States for appropriate action such evidence
10 developed in the performance of functions under this Act as
11 may be found to warrant consideration for criminal prosecu-
12 tion under the provisions of this Act or other Federal law.”.

13 (b) Title III of the Disaster Relief Act of 1974 is
14 amended by deleting section 317 (42 U.S.C. 5157) and by
15 renumbering subsequent sections appropriately;

16 (c) Title IV of the Disaster Relief Act of 1974, as
17 amended (42 U.S.C. 5171), is amended by deleting section
18 405 and renumbering subsequent sections appropriately.

19 SEC. 13. Title IV of the Disaster Relief Act of 1974, as
20 amended (42 U.S.C. 5171-5189), is amended by adding
21 three new sections as follows and by renumbering subsequent
22 sections appropriately:

23 “PROCEDURES

24 “SEC. 401. (a) All requests for a declaration by the
25 President that a major disaster exists shall be made by the

1 Governor of the affected State. Such Governor's request
2 shall be based upon a finding that the disaster is of such
3 severity and magnitude that effective response is beyond the
4 capabilities of the State and the affected local governments
5 and that Federal assistance is necessary. As a part of this
6 request, and as a prerequisite to major disaster assistance
7 under the Act, the Governor shall take appropriate action
8 under State law and direct execution of the State's emergen-
9 cy plan. He shall furnish information on the extent and
10 nature of State resources which have been or will be used to
11 alleviate the conditions of the disaster, and shall certify that
12 for the current disaster, State and local government obliga-
13 tions and expenditures (of which State commitments must be
14 a significant proportion) will constitute the expenditure of a
15 reasonable amount of the funds of such State and local gov-
16 ernments for alleviating the damage, loss, hardship, or suffer-
17 ing resulting from such disaster, including, but not limited to,
18 the cost-sharing provisions pursuant to sections 405, 406,
19 and 410 of this Act. Based upon such Governor's request,
20 the President may declare that a major disaster exists.

21 “(b) In any case where an eligible applicant (or the
22 State) is unable to assume its financial responsibility under
23 this Act, the President is authorized to lend or advance to the
24 State such 25 per centum share. For purposes of section 405,
25 such loan or advance shall be based upon the occurrence of

1 concurrent, multiple disasters in a given jurisdiction or the
2 extraordinary cost of a major disaster. Any such loan or ad-
3 vance is to be repaid to the United States but shall be inter-
4 est free for two years from the date of the declaration; there-
5 after such obligations shall bear interest at a rate determined
6 by the Secretary of the Treasury, taking into consideration
7 the current average yield on outstanding marketable obli-
8 gations of the United States.

9

"FEDERAL ASSISTANCE

10 "SEC. 402. In any major disaster, the President may—

11 "(a) direct any Federal agency without reimburse-
12 ment to utilize its authorities and the resources granted
13 to it under other Acts including, but not limited to,
14 personnel, equipment, supplies, facilities, and manageri-
15 al, technical, and advisory services in support of State
16 and local assistance efforts;

17 "(b) coordinate all Federal agencies and voluntary
18 relief or disaster assistance organizations providing dis-
19 aster assistance, and coordinate disaster assistance
20 with State and local officials; and

21 "(c) provide technical and advisory assistance to
22 affected State and local governments in the perform-
23 ance of essential community services, warning of risks
24 and hazards, public information and assistance in
25 health and safety measures, management and control,

1 and reduction of immediate threats to public health and
2 safety.

3 "COOPERATION OF FEDERAL AGENCIES IN RENDERING
4 DISASTER ASSISTANCE

5 "SEC. 403. (a) In any major disaster, Federal agencies
6 are hereby authorized, on the direction of the President, to
7 provide assistance by—

8 "(1) utilizing or lending, with or without compen-
9 sation therefor, to States and local governments, their
10 equipment, supplies, facilities, personnel, and other re-
11 sources, other than the extension of credit under the
12 authority of any Act;

13 "(2) distributing or rendering, through the Ameri-
14 can National Red Cross, the Salvation Army, the Men-
15 nonite Disaster Service, and other relief and disaster
16 assistance organizations, or otherwise, medicine, food,
17 and other consumable supplies, or emergency assist-
18 ance;

19 "(3) donating or lending equipment and supplies,
20 including that determined in accordance with applicable
21 laws to be surplus to the needs and responsibilities of
22 the Federal Government, to State and local govern-
23 ments for use or distribution by them for the purposes
24 of this Act; and

1 “(4) performing on public or private lands or
2 waters any emergency work or services essential to
3 save lives and to protect and preserve property, public
4 health and safety, including but not limited to: search
5 and rescue, emergency medical care, emergency mass
6 care, emergency shelter, and provisions of food, water,
7 medicine, and other essential needs, including move-
8 ment of supplies or persons; construction of temporary
9 bridges necessary to the performance of emergency
10 tasks and essential community services; provision of
11 temporary facilities for schools and other essential com-
12 munity services; warning of further risks and hazards;
13 public information and assistance on health and safety
14 measures; technical advice to State and local govern-
15 ments on disaster management and control; reduction
16 of immediate threats to life, property, and public health
17 and safety; and making contributions to State or local
18 governments for the purpose of carrying out the provi-
19 sions of this paragraph. Such contributions shall not
20 exceed 100 per centum of the net eligible cost, or for
21 small projects the Federal estimate of the net eligible
22 cost, or such emergency work or services performed by
23 State and local governments.

1 “(b) Where debris removal assistance is appropriate
2 under this section it shall be provided in accordance with the
3 terms and conditions of section 406 of this Act.”.

4 SEC. 14. (a) Section 402 of the Disaster Relief Act of
5 1974, as amended (42 U.S.C. 5172), is amended to read as
6 follows:

7 “(a) The President is authorized to make contributions
8 to State or local governments, to help repair, restore, recon-
9 struct, or replace public facilities belonging to such State or
10 local government which were damaged or destroyed by a
11 major disaster. Notwithstanding any other provision of law,
12 such contributions shall be limited to 75 per centum of the
13 net eligible cost, or for small projects the Federal estimate of
14 the net eligible cost, of repairing, restoring, reconstructing, or
15 replacing such facility estimated on the basis of the design of
16 such facility as it existed immediately prior to such major
17 disaster. For the purposes of this section, “public facility”
18 includes any publicly owned flood control, navigation, irriga-
19 tion, reclamation, public power, sewage treatment and collec-
20 tion, water supply and distribution, watershed development,
21 or airport facility, any non-Federal-aid street, road, or high-
22 way, any other public building, structure, or system including
23 those used for educational or recreational purposes, and any
24 park.

1 “(b) The President is authorized to make contributions
2 to help repair, restore, reconstruct, or replace eligible private
3 nonprofit facilities which were damaged or destroyed by a
4 major disaster. Notwithstanding any other provision of law,
5 such contributions shall be limited to 75 per centum of the
6 net eligible cost, or for small projects the Federal estimate of
7 the net eligible cost, of repairing, restoring, reconstructing, or
8 replacing such facility estimated on the basis of the design of
9 such facility as it existed immediately prior to such major
10 disaster. For the purposes of this section, “eligible private
11 nonprofit facility” means private nonprofit educational, util-
12 ity, emergency, medical, and custodian care facilities, includ-
13 ing those for the aged and disabled, and facilities on Indian
14 reservations as defined by the President which were damaged
15 or destroyed by a major disaster.

16 “(c) No authority under this section shall be exercised
17 unless the affected State, local government, or eligible pri-
18 vate nonprofit organization first agrees that such facility shall
19 be repaired, restored, reconstructed, or replaced in compli-
20 ance with environmental protection, floodplain management
21 and hazard mitigation criteria required by the Director, and
22 in conformity with other applicable codes, specifications and
23 standards.

24 “(d) For those facilities eligible under this section which
25 were in the process of construction when damaged or de-

1 stroyed by a major disaster, the contribution shall be based
2 on 75 per centum of the net eligible costs of restoring such
3 facilities substantially to their predisaster condition, provided
4 that the term 'net eligible costs' shall not include costs
5 which, under a contract, are the responsibility of a contrac-
6 tor.

7 “(e) In those cases where a State or local government
8 determines that public welfare would not be best served by
9 repairing, restoring, reconstructing, or replacing particular
10 public facilities owned or controlled by that State or that
11 local government which have been damaged or destroyed in a
12 major disaster, it may elect to receive, in lieu of the contribu-
13 tion described in subsection (a) of this section, a contribution
14 based on 67 per centum of the Federal estimate of the total
15 net eligible cost of repairing, restoring, reconstructing, or re-
16 placing all damaged facilities owned by it within its jurisdic-
17 tion. The cost of repairing, restoring, reconstructing, or re-
18 placing damaged or destroyed public facilities shall be esti-
19 mated on the basis of the design of each such facility as it
20 existed immediately prior to such disaster. Funds contributed
21 under this subsection may be expended either to repair or
22 restore certain selected damaged public facilities or to con-
23 struct new public facilities which the State or local govern-
24 ment determines to be necessary to meet its needs for gov-

1 ernmental services and functions in the disaster-affected
2 area.”.

3 (b) The Disaster Relief Act of 1974, as amended, is
4 amended by deleting section 419 (42 U.S.C. 5189) and by
5 striking “or 419” each place that this phrase appears in sec-
6 tion 314 (42 U.S.C. 5154).

7 (c) Section 403 of the Disaster Relief Act of 1974, as
8 amended (42 U.S.C. 5173), is amended by adding at the end
9 thereof the following:

10 “(c) Notwithstanding any other provision of law, wheth-
11 er carried out directly through Federal departments, agen-
12 cies, or instrumentalities or through grants to State or local
13 governments, Federal assistance provided under authority of
14 this section shall not exceed 75 per centum of the net eligible
15 costs, or for small projects the Federal estimate of the net
16 eligible costs of debris removal.”.

17 SEC. 15. Section 404(a) of the Disaster Relief Act of
18 1974 is amended to read as follows:

19 “(a)(1) The President is authorized to provide, either by
20 purchase or lease, temporary housing, including, but not lim-
21 ited to, unoccupied habitable dwellings, suitable rental hous-
22 ing, mobile homes, or other readily fabricated dwellings for
23 those who, as a result of a major disaster, require temporary
24 housing. Temporary housing assistance shall be provided only
25 when adequate alternate housing is unavailable, unless there

1 is a compelling need to do so because of severe hardship. The
2 assistance to be provided shall be determined by the Presi-
3 dent based on the fair market value of the accommodations
4 being furnished, adjusted to take into consideration the finan-
5 cial ability of the occupant. Any mobile home or other readily
6 fabricated dwelling shall be placed on a site complete with
7 utilities provided either by the State or local government, or
8 by the owner or occupant of the site who was displaced by
9 the major disaster, without charge to the United States. The
10 President may authorize installation of essential utilities at
11 Federal expense and he may elect to provide other more eco-
12 nomical or accessible sites when he determines such action to
13 be in the public interest.

14 “(2) The President is authorized to make contributions
15 not to exceed 100 per centum of the costs to State or local
16 governments for the purpose of providing temporary housing
17 assistance to those who require it as a result of a major disas-
18 ter. Whenever he determines it to be in the public interest,
19 the President is authorized to provide temporary housing as-
20 sistance by using Federal departments, agencies, or instru-
21 mentalities. The Federal financial and operational responsi-
22 bilities for temporary housing assistance shall not exceed 18
23 months from the date of a major disaster declaration by the
24 President unless he determines that due to extraordinary cir-

1 cumstances it would be in the public interest to extend the
2 18-month period.”.

3 SEC. 16. Section 407(a) of the Disaster Relief Act of
4 1974, as amended (42 U.S.C. 5177), is amended by striking
5 the first and second sentences thereof and inserting in lieu
6 thereof the following: “The President is authorized to provide
7 unemployment assistance to individuals who are unemployed
8 as a result of a major disaster and who are not otherwise
9 eligible for payment of benefits or waiting week credit under
10 authority of any other Federal or State Act. The duration of
11 such benefit assistance shall not exceed twenty-six weeks.”.

12 SEC. 17. Section 408(b) of the Disaster Relief Act of
13 1974, as amended (42 U.S.C. 5178), is amended by striking
14 the second sentence thereof.

15 SEC. 18. Section 408(d) of the Disaster Relief Act of
16 1974, as amended (42 U.S.C. 5178) is amended by adding at
17 the end thereof the following new sentence: “Whenever a
18 State demonstrates efficiency by promptly completing all
19 grants to eligible individuals and families within the period
20 prescribed by the President, the State may be reimbursed for
21 50 per centum of those administrative expenses which exceed
22 3 per centum of the Federal grant made under subsection (a)
23 of this section.”.

1 SEC. 19. Section 413 of the Disaster Relief Act of
2 1974, as amended (42 U.S.C. 5183), is amended by striking
3 "(through the National Institute of Mental Health)".

4 SEC. 20. Section 418(d) of the Disaster Relief Act of
5 1974 (42 U.S.C. 5188), is deleted.

6 SEC. 21. Section 606 of the Disaster Relief Act of
7 1974, as amended (42 U.S.C. 5202), is amended to read as
8 follows. "Except as provided pursuant to section 203 of this
9 Act, there are authorized to be appropriated to the President
10 to carry out this act \$325,000,000 for fiscal year 1983 and
11 such sums as may be necessary in fiscal years 1984 and
12 1985, and to the Federal Emergency Management Agency
13 for administrative expenses \$6,108,000 for fiscal year 1983
14 and such sums as may be necessary in fiscal years 1984 and
15 1985."

16 SEC. 22. The Disaster Relief Act of 1974 (Public Law
17 93-288) as amended, is amended by:

18 (1) striking paragraph (7) of section 101(b) (42
19 U.S.C. 5121);

20 (2) striking "the Canal Zone," in paragraphs (3)
21 and (4) of section 102 (42 U.S.C. 5122);

22 (3) striking "DISASTER" in the caption of title
23 III (42 U.S.C. 5141-5158) and inserting in lieu there-
24 of "MAJOR DISASTER RELIEF AND EMER-
25 GENCY";

1 (4) striking "section 402 or 404 of" in section
2 311(b) (42 U.S.C. 5151);

3 (5) adding "emergency or" before the word
4 "major" each of two places that word appears in sec-
5 tion 310 (42 U.S.C. 5150);

6 (6) striking in section 313(b) (42 U.S.C. 1281) all
7 after the word "areas" and inserting in lieu thereof a
8 period;

9 (7) striking "or section 803 of the Public Works
10 and Economic Development Act of 1965" each place
11 the phrase appears in section 314 (42 U.S.C. 5154);

12 (8) striking "402" each place that number ap-
13 pears in section 314 (42 U.S.C. 5154) and inserting in
14 lieu thereof "405";

15 (9) adding "emergency and major" before the
16 word "disaster" in section 316 (42 U.S.C. 5156);

17 (10) adding the word "MAJOR" between the
18 words "FEDERAL" and "DISASTER" in the cap-
19 tion to title IV (42 U.S.C. 5171-5189);

20 (11) striking "in emergencies or" in the third sen-
21 tence of paragraph (2) of section 404(d) (42 U.S.C.
22 5174);

23 (12) striking "311" in section 404(d)(2) (42
24 U.S.C. 5174) and inserting in lieu thereof "308";

- 1 (13) striking "an emergency or" in section 415
- 2 (42 U.S.C. 5185) and inserting in lieu thereof "a";
- 3 (14) striking "408" in section 605 (42 U.S.C.
- 4 5121) and inserting in lieu thereof "410";
- 5 (15) striking "301" in subtitle C of title I of the
- 6 State and Local Fiscal Assistance Act of 1972 (Public
- 7 Law 92-512; 86 Stat. 919) and inserting in lieu there-
- 8 of "401"; and
- 9 (16) striking "President" and substituting in lieu
- 10 thereof "Director" in each of the places that word ap-
- 11 pears in title II and in section 316;
- 12 (17) striking "President" each place that word
- 13 appears in section 312(a) and inserting in lieu thereof
- 14 "Federal coordinating officer".



National Governors' Association

Richard A. Snelling
Governor of Vermont
Chairman

Stephen B. Farber
Executive Director

May 4, 1982

Mr. Steve Swain
Professional Staff Member
Senate Subcommittee on Regional
and Community Development
4204 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Steve:

Thanks very much for allowing me the opportunity to testify on behalf of the National Governors' Association in reference to S. 2250, the Disaster Relief Act Amendments of 1982. As I indicated in the testimony, NGA has very strong feelings about this issue.

I would like to make a few additional points of clarification for the record.

First, on page 5, line 22, Section 102 (2) of the Disaster Relief Act of 1974, should not be amended with the word "natural" between the words "other" and "catastrophe." As indicated in my testimony, emergencies, by their very nature, involve elements of the unknown or unexpected. Because of this fact, the bill must be applicable to all kinds of natural, man-made and attack disasters.

Second, on page 9, line 5, relating to the recovery of funds by the U. S. Attorney General, the Committee report should clearly reflect the intent of Congress in this section. The intent should not be to apply this section against governmental jurisdictions that fail to mitigate known hazards. However, such intent must be clear in order to avoid charges at a later date that federal administrators have violated the purpose of this amendment.

Third, on page 17, line 17, strike the period after disaster and replace it with a comma, then insert:

"and in conformity with current applicable codes, specifications, and modern federal, state, and local standards."

Then continue with the next sentence as indicated on line 17. This amendment should also be placed on page 18, line 10, after "disaster".

Mr. Steve Swain
May 4, 1982
Page 2

The purpose of this amendment is to make sure that facilities are repaired, restored, or rebuilt to fit current standards and codes.

Fourth, page 14, line 4, after the word "declaration", insert the following:

"if a jurisdiction has had concurrent, multiple disasters or catastrophes within a two year period, there may be a request for forgiveness of the loan. Request for forgiveness should be made to the President. Requesting jurisdiction should supply financial and other evidence needed. Based upon the supporting evidence, the President may grant forgiveness."

Following this insertion, strike "thereafter" in lines 4 and 5, and insert in lieu thereof "other".

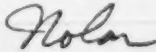
This clause will help those jurisdictions that might be in financial ruin after one or two major disasters or emergencies. A disaster of this nature could impact the financial condition of a jurisdiction for several years. If more disasters occur while the jurisdiction is recovering from a previous disaster, a repayment of the loan would pose an additional hardship.

I would like to submit the enclosed letters from the states of Massachusetts, Colorado, Hawaii, and Pennsylvania for the record.

Finally, since time is approaching May 15 for S. 2250, and there are many problems with the legislation, perhaps Senator Murkowski would consider reauthorizing the Disaster Relief Act of 1974 without the amendments, and hold further hearings to work out a bill with the Administration and other interested groups.

Thanks again for the opportunity to comment on this proposed legislation.

Sincerely,



Nolan E. Jones
Staff Director
Committee on Criminal Justice
and Public Protection

Enclosures



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT

CIVIL DEFENSE AGENCY AND OFFICE OF EMERGENCY PREPAREDNESS
400 WORCESTER ROAD
P.O. BOX 1486
FRAMINGHAM, MASS. 01701



EDWARD J. KING
GOVERNOR

April 22, 1982

PAUL J. CAHILL
DIRECTOR

Mr. Nolan E. Jones, Staff Director
Committee on Criminal Justice & Public Protection
National Governors' Association
444 North Capitol Street
Washington, D.C. 20001

APR 27 1982

Dear Sir:

I have completed my review of S2250, a bill to amend the Disaster Relief Act of 1974. I am submitting these comments and suggestions for improving this bill.

- 1) Massachusetts accepts the 75%-25% cost sharing concept as long as the costs incurred by a state prior to a disaster declaration are considered as part of its 25% contribution.
- 2) It is not clearly stated how this bill will allow the president to respond to "emergencies" without triggering long range recovery provisions.
- 3) One part of the definition of "major disaster" should be changed from "and other natural catastrophes" to "other catastrophes created by natural weather phenomenon and fire."
- 4) The bill should clarify the expanded powers of the FEMA Director to perform investigations and to require states to investigate fraud.
- 5) I object to the deletion from the Public Assistance Program, the requirement that the Federal Government would reimburse an applicant for a facility "in conformity with current applicable codes" when the local or state government chooses the "in lieu" funding option.

I hope these comments will contribute to the positive improvement of the Disaster Relief Act of 1974. If you wish to discuss this further, please call me.

Sincerely,

Paul J. Cahill
Director

PJC/RK/csf

STATE OF COLORADO

Department of Military Affairs
DIVISION OF DISASTER EMERGENCY SERVICES
 Camp George West
 Golden, Colorado 80401
 Phone (303) 279-2511



21 April 1982

Mr. Steve Swain
 Professional Staff
 Senate Subcommittee on Regional
 and Community Development
 4204 Dirksen Senate Office Building
 Washington, D.C. 20510

Richard D. Lamm
 Governor
 Brig. Gen. John L. France
 The Adjutant General
 John P. Byrne
 Director

Dear Mr. Swain:

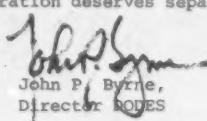
The State of Colorado submits the following comments on Senate Bill 2250, Disaster Relief Act Amendments of 1982, for consideration by the Senate Subcommittee on Regional and Community Development.

Sections 1. Cost sharing provision: 75% (Federal) - 25% (State and Local) of the Public Assistance Program and Debris Clearance Program costs under a major disaster declaration. This cost sharing provision was instituted administratively starting with the Mount Saint Helens Disaster and has been applied to each succeeding disaster. It is required by FEMA in the Federal-State Agreement entered into after a major disaster declaration is made by the President.

Since the existing rules and regulations do not specifically spell out what costs are eligible or ineligible under this program and since experience has shown that the true costs to the State and Local Government are more in the area of 40 - 50%, the State feels this amendment is deceptive and cannot support it. Further, since this policy change has only recently been put into practice there is still not enough data to fully evaluate the financial impacts on State/Local Governments. It would therefore be premature to institute such a change into law at this time.

Cost sharing of expenses in the wake of a major disaster may be an excellent concept, but the procedural details must be more thoroughly flushed out so that all costs are taken into account, not just those associated with one specific program.

- Section 201 2. Increase in the Federal funds available from \$25,000 to \$50,000 on a match funded basis to support the Improvement Grant Section of the law. Also incorporation of vulnerability analysis and mitigation activities as authorized program activities under this grant. The State fully supports these amendments, since they will provide for an increased State preparedness capability.
- Section 410 3. Provision for the potential of obtaining reimbursement for an additional 50% of the cost of administering the Individual and Family Grant Program. The State fully supports this amendment, since this will reduce the State's cost of administering this Federal Program.
- Section 417 4. Deletion of the provision for providing emergency communications support under emergency conditions (limits such support to, in anticipation of or during a major disaster). Communications are vital to the maintenance of continuity of government and coordination of emergency response activities. The potential for the disruption of both commercial and State and Local Governmental Communications Systems in an emergency environment short of a major disaster exists. The State therefore opposes the deletion of the provision for such resource assistance in an emergency environment.
5. The State recommends consideration of funding for the mitigation activities specified in Section 408 and required under the Federal-State Agreement. Presently there is no specific funding available under the Disaster Relief Act for mitigation planning after a disaster. Mitigation activities must therefore be undertaken within the scope of existing program restrictions. These are considered less than satisfactory as our experience in the Big Thompson Disaster in Colorado has proven. The State believes the expanded mitigation program now required following a Presidential Disaster Declaration deserves separate funding authority.


John P. Byrne,
Director NDES

JPB:gcc

cc: Sue O'Brien, Office of the Governor
Lee White, Office of Planning and Budgeting
Alton D. Cook, Regional Director FEMA Region VIII
Nolan E. Jones, National Governors Association

GEORGE R. ARIYOSHI
GOVERNOR

ARTHUR U. ISHIMOTO
DIRECTOR OF CIVIL DEFENSE

JIM COREY
VICE DIRECTOR OF CIVIL DEFENSE



PHONE (808) 734-2151

STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE DIRECTOR OF CIVIL DEFENSE
3648 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816

April 14, 1982

HICDPO

MEMO TO: Mr. Steve Swain
Professional Staff
Senate Subcommittee on Regional & Community Development

SUBJECT: Hearing on Disaster Relief Act Amendments of 1982

Attached are our comments previously sent to the National Governors' Association on the subject of your April 20 hearing.

Our major concern with S. 2250 is what appears to be a rather intransigent position with regard to the 25% commitment required by the states. Under a severe disaster, a small state such as Hawaii would find it difficult to meet that commitment without creating other hardships.

Because of regional variances, we would encourage legislation such as S. 2250 to permit regional directors to be delegated considerable leeway and authority. Taking Hawaii as an example, our ability to commit statewide resources to a given disaster is severely hampered when our four major counties are islands separated by wide ocean distances. This aspect may not always be recognized since Hawaii is approximately 2,500 miles away from the mainland U.S.A.

Thank you for your consideration of our proposals.

JIM COREY
Vice Director of Civil Defense

Enc.

GEORGE R. ARTOGH
GOVERNOR

ARTHUR U. ISHAMOTO
DIRECTOR OF CIVIL DEFENSE

JIM COREY
VICE DIRECTOR OF CIVIL DEFENSE



STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE DIRECTOR OF CIVIL DEFENSE
2845 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96819



Phone (808) 734-2701

APR 16 1982

April 12, 1982

HICDPO

MEMO TO: Mr. Nolan E. Jones, Staff Director
National Governors' Association

SUBJECT: S.2250, A Bill to Amend the Disaster Relief Act of 1974, Your
Letter of March 26, 1982

1. We appreciate the opportunity to comment on the proposed amendment to the Disaster Relief Act of 1974. Some of our thoughts are expressed below.
 - a. While we pose no objection to restricting the long-range response and recovery to essentially natural catastrophes, we are concerned that the ability to cope with man-caused disasters in the short-term not be attenuated.
 - b. In the area of discretionary authority, we would encourage any cost-sharing ratio be caveated to recognize there are circumstances where a State's share would need to be reduced. With regard to small projects eligible for 100 percent assistance, we believe "small projects" should be given a specific dollar value.
 - c. We note that the Individual and Family Grant Programs retains the \$5,000 maximum authorized in the original act. Inflation and higher interest rates have significantly reduced the amount of help being rendered under this program. Unless there is a basis for reducing assistance, the maximum amount of the grant should be increased.
2. We would appreciate being kept informed on the progress of the proposed legislation.

JIM COREY

Vice Director of Civil Defense



PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY
P.O. BOX 3321
HARRISBURG, PENNSYLVANIA 17103



April 19, 1982

Mr. Nolan E. Jones
Staff Director
Committee on Criminal Justice
and Public Protection
National Governor's Association
Hall of the States
444 North Capitol Street
Washington, D.C. 20001

Dear Mr. Jones:

Senator Murkowski's proposed amendments to the Disaster Relief Act are quite clear as to their intent. However, on the positive side the changes define those incidents that previously have been considered borderline disasters.

Several of the proposed amendments impinge significantly upon local jurisdictions, while others require further clarification as follows.

The percentage ratio of 75/25 as federal sharing in this program does not really assist but penalizes local governments. Many local governments contribute through various actions that currently are not eligible for reimbursement and, therefore, are not permitted to be included as part of their 25 percent share.

Special legislation, or if time is critical, an executive order, should be enacted for emergency social disorders and their attendant long-term relief requirements. These situations may be administratively supervised by the same framework of disaster assistance personnel; however, specialized basic doctrine along with guidance could be situationally designed and have a definitive termination date for the overall emergency.

Section 407 indicates use of "adequate alternate housing" but does not define what is adequate alternate housing. It is presumed that this refers to housing under the control of the disaster victim such as a vacation home or an unoccupied apartment owned by the eligible applicant, etc., that could be usable in the interim. If simple availability of sufficient vacant units on the private market would mean that alternate housing is available, this would effectively preclude offering temporary housing assistance to persons who may desperately need it.

Timber sales contracts, new Section 420, Section (d), has eliminated assistance in clearing damaged timber from private land. If timber is defined as commercial timberlands, and a private grove remains eligible under emergency debris clearance, that prescribes a major difference. Emergency debris clearance including timber should be maintained in the statute and eligible for assistance.

Mr. Nolan E. Jones
April 19, 1982
Page 2

The mechanism for providing long range recovery, while not fully used in past disasters, provided a system for joint state/federal control to prioritize the varying programs and disaster-affected areas over the non-disaster applicants. Elimination of long range recovery may well be offset with the inducement in Section 408 to meet the established timetable.

A major improvement in the amendment is the provision enabling a state to borrow the initial 25 percent, and recognition of the high administrative costs which could eventually be shared 50/50 with federal funding.

Thank you for the opportunity to comment on this amendment, and we hope these will be of assistance during the hearing. If we can be of any additional service, please call.

Sincerely,


Dewitt C. Smith, Jr.
Director

DCS:pmd (Tel: 717-783-8150)

cc: Steve Swain

BRUCE BABBITT
GOVERNOR

STATE OF ARIZONA



CHARLES A. OTT, JR.
DIRECTOR

DIVISION OF EMERGENCY SERVICES

8838 EAST MCDOWELL ROAD

PHOENIX, ARIZONA 85008

TEL. (602) 278-8880

April 13, 1982

Mr. Steve Swain
Professional Staff
Senate Subcommittee on Regional and Community Development
4204 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Swain:

Enclosed are comments relative to S-2250 the Disaster Relief Act Amendments of 1982.

Sincerely,

L. E. Fitzgerald
L. E. Fitzgerald
Deputy Director
Plans & Operations

Enclosure

COMMENTS

PROPOSED AMENDMENT OF THE DISASTER RELIEF ACT OF 1974
S-2250

1. Page 2532

Section 102(1). The new definition as related to "occasion or instance" can be the subject of considerable interpretation. Considerable clarification will be required in the CFR. Arizona has always looked upon a Presidential emergency as providing a specific type of supplemental assistance for a specific and pressing need.

2. Page 2532

Section 102, Paragraph (2). The use of the term other natural catastrophe does not consider man-made catastrophes such as a structural fire, or a fixed nuclear facility incident.

3. Page 2532

Section 201, Paragraph (d). The annual improvement grant is increased from \$25,000 to \$50,000 per year. Strongly indorse.

4. Page 2532

Section 301. The title of this section is changed to "Rules and Regulations". The modified paragraph (a) pertains to the "Rules and Regulations" but paragraphs (b) and (c) do not. Additionally the proposed change to paragraph (a) is an exact reflection of Section 601 (a) on page 2540.

5. Page 2535

Section 401 (a). This section contains the same requirement expressed in the original law pertaining to a Governor's request for a major disaster declaration. That is a certification of the State and local government's obligations and expenditures for the disaster.

The inclusion of this requirement does not eliminate the problem FEMA has had in determining the "reasonableness" of a commitment. States have had similar problems. The cost sharing required by sections 405, 406 and 410 establish an identifiable commitment and should be sufficient.

An additional commitment cost that is not recognized is a FEMA mitigation requirement. That requirement can be imposed as a condition for specific project approval. Costs above the normal eligible costs approved by FEMA are the responsibility of State or local government.

6. Page 2535

Section 401 (b). The multiple disaster or extraordinary cost condition of this section could deprive many communities and Indian Tribes of this section's provision. Consideration should be given to deleting it.

7. Page 2536

Section 405(a) and (b). Small projects are referred to in this section without benefit of prior clarification. Section 419, In-Lieu Contribution, of the original law, is currently referred to in the CFR as "a small-project grant". The deletion of Section 419 (page 2538) in the proposed legislation raises the question as to what is a small project?

8. Page 2537

Section 410 (d). Addition to this paragraph is a worthy incentive.

9. Page 2539 and 2540

Section 501 and Section 503 (a). Section 501 contains the same requirements for State and local commitments as contained in 401 (a). Perhaps intentionally, there is no cost sharing referred to in this section.

The following section 503 (a) by reference to 406 -- debris removal, does require cost sharing. Section 410 -- Individual and Family Grant Programs -- could be implemented under an emergency determination with its cost sharing. The commitment requirement is again raised.

STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

OFFICE OF EMERGENCY SERVICES

POST OFFICE BOX 9507
SACRAMENTO, CALIFORNIA 95822
(916) 427-4990



April 26, 1982

Mr. Steve Swain
Professional Staff
Senate Subcommittee on Regional and
Community Development
4204 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Swain:

S.2250 - A Bill to Amend the
Disaster Relief Act of 1974

In response to a March 26, 1982 request for comments on S.2250 received from Nolan E. Jones of the National Governor's Association, I am submitting this letter to you. I realize S.2250 was heard by the Senate Subcommittee on Regional and Community Development on April 20, 1982; however I am informed that you have requested the subcommittee chairman, Senator Murkowski, to hold the hearing record open for another ten days in order to receive additional written comments from several states, including California. Thank you for your consideration and please ensure that this letter, which sets forth the concerns of the State of California with respect to S.2250, be made a part of the official subcommittee hearing record.

In many ways S.2250 improves the federal Disaster Relief Act of 1974 (hereinafter referred to as the Act). For example, I strongly support the provisions which appear throughout S.2250 transferring responsibility for managing federal disaster assistance programs from the President to the Director of the Federal Emergency Management Agency (FEMA). This delegation of authority will improve the ability of FEMA to effectively direct the various programs authorized by the Act. This modification establishes an emergency management infrastructure for the Federal Government similar to that which is currently in use here in California.

I concur with the proposed new definitions of "emergency" and "major disaster" as they appear in Section 102. Restricting the

Mr. Steve Swain
 April 26, 1982
 Page TWO

scope of the term "major disaster" as specified actually clarifies federal policy with respect to administering disaster recovery operations for natural catastrophes as opposed to providing long-term relief for social disorders or other situations not intended in the original legislation. Also, expanding the definition of "emergency" to include any occasion for which federal assistance is needed can still make possible the provision of assistance in emergency situations other than natural catastrophes. I also concur with the inclusion of hazard mitigation programs in state disaster assistance plans, and the increase in the 50% matching funds grants to a maximum of \$50,000 for improving, maintaining and updating those plans as specified in Section 201(d).

Notwithstanding the obvious improvements the above modifications make in the Act, there are serious negative consequences for state and local governments imposed by two major modifications proposed by S.2250. First and foremost, S.2250 introduces a cost sharing formula with respect to repairing, restoring, reconstructing or replacing public and private nonprofit facilities damaged or destroyed by a major disaster. The same formula is also extended to in lieu contributions.

As specified in Section 405(a), this formula limits federal contributions to 75 percent of the net eligible cost, or for small projects the federal estimate of such cost, of repairing, restoring, reconstructing or replacing public facilities belonging to state or local governments which were damaged or destroyed by a major disaster. Section 405(b) imposes the same limitation with respect to eligible private nonprofit facilities. Section 405(e) imposes the 75 percent limit on federal in lieu contributions. Since in lieu contributions are already limited to 90 percent of the federal estimate of the total net eligible cost of repairing, restoring, reconstructing or replacing all damaged or destroyed public facilities owned by a local government within its jurisdiction, the actual amount of the federal contribution would be limited to 67 percent of the costs described herein. Finally, Section 406(c) limits federal assistance to 75 percent of the net eligible costs of debris removal.

Mr. Steve Swain
April 26, 1982
Page THREE

These restrictions create an excessive burden on the State of California. Because of FEMA regulations and policy decisions, even if the federal contribution was 100 percent of eligible costs, state and local governments are already paying a proportionate share of disaster recovery expenses. For example, as a result of the January/February 1980 floods eight California counties were declared by the President to be major disaster areas. At that time FEMA did not impose the 75 percent limitation on federal contributions. Local governments identified \$165.7 million in damaged or destroyed public property. To date, two years later, FEMA has approved \$118.97 million for the repair or replacement of facilities deemed eligible under FEMA criteria. Thus, even when the federal contribution equaled 100 percent of eligible costs, state and local governments in the declared major disaster areas were required to pay 100 percent of the costs not deemed eligible by FEMA. In 1980 this amount equaled \$46.73 million, or 28 percent of total repair/replacement costs. Had the 75/25 percent cost sharing been in effect in 1980, state and local governments would have been required to pay \$89.23 million, or 54 percent of total repair/replacement costs. Therefore it is respectfully requested that FEMA continue to fund 100 percent of costs deemed eligible under FEMA criteria as has been done in the past. Thus, the provisions invoking the proposed cost sharing formula should be eliminated from Section 405 and 406 of S.2250. Modification should be made to Sections 401(a) and (b) to eliminate reference to the advance of funds for the 25 percent state/local share with respect to Sections 405 and 406. It is also requested that the provision of Section 401(b) requiring interest on the 25 percent share advanced for the purposes of Section 410 (Individual and Family Grants) be eliminated. This additional cost would also impose extreme hardship on the State of California.

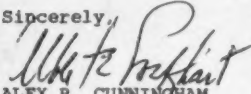
One other problem exists with respect to the proposed limitation on federal assistance in an "emergency" declared by the President. Section 503(c) limits the cost of providing federal emergency assistance to a maximum of \$5 million. Although Section 503(d) permits this limit to be exceeded when there is a continuing risk to lives, property, public health or safety, the President is required to report to Congress on the specific nature and extent of emergency assistance requirements. The limitation

Mr. Steve Swain
April 26, 1982
Page FOUR

imposed by Section 503(c) is inadequate and unnecessarily restrictive when applied to California's situation. Almost any request from California for assistance under Sections 502 and 503 will involve federal emergency assistance in excess of \$5 million. Further, continued repetitive use of the provisions of Section 503(d) is an overly cumbersome and burdensome process. For these reasons the State of California requests deletion of subsections (c) and (d) from Section 503.

Thank you for the opportunity to present my views to you. Please contact me if you have questions or require additional information. My telephone number is (916) 427-4201.

Sincerely,



For ALEX R. CUNNINGHAM
Director

cc: Nolan E. Jones



State of California

WASHINGTON OFFICE
600 PENNSYLVANIA AVE., S.E., SUITE 201
WASHINGTON, D.C. 20003
(202) 543-9100

EDMUND G. BROWN, JR.
GOVERNOR

May 4, 1982

The Honorable Frank Murkowski
Chairman
Subcommittee on Regional and
Community Development
U.S. Senate
Washington, D.C. 20510

Dear Senator Murkowski:

It is my understanding that in a recent letter to Subcommittee Counsel Steve Swain, the Director of the California Office of Emergency Services, Mr. Alex Cunningham, communicated his concerns to you regarding S. 2250, the Disaster Relief Act Amendments of 1982.

In addition to Mr. Cunningham's detailed comments, I respectfully request that the enclosed letter from Governor Brown to Representative Levitas, Chairman of the House Public Works Subcommittee on Investigations and Oversight, be included in your hearing record. The letter further states California's concerns with respect to the proposed cost sharing requirements for projects eligible for federal disaster assistance.

On behalf of Governor Brown, I appreciate very much your attention to the concerns of the State of California, and welcome the opportunity to be of assistance during your deliberations on S. 2250.

Sincerely,


R. Gary Magnuson
Assistant Director
for Resources

Enclosure



State of California

GOVERNOR'S OFFICE
SACRAMENTO 95814EDMUND G. BROWN JR.
GOVERNOR

(916) 445-2843

June 3, 1981

Honorable Elliott H. Levitas
Chairman
Investigations and Oversight Subcommittee of the
House Public Works and Transportation Committee
8376 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Levitas:

It is my understanding that the Investigations and Oversight Subcommittee is conducting a series of hearings on the administration of the Federal disaster assistance program. I respectfully request, therefore, that this letter, which sets forth the concerns of the State of California regarding the program, be made part of the official hearing record of the Subcommittee.

Detouring from previously held practices, the Federal Emergency Management Agency (FEMA) in early 1980 began to implement a cost sharing requirement at a level of 75 percent Federal and 25 percent state for projects deemed eligible for Federal disaster assistance by including such requirement in Federal/State Agreements. As you are no doubt aware, Federal/State Agreements are negotiated with each affected state following a Presidential major disaster declaration, a document which must be signed by the governor of the state so declared before funds will be made available for recovery operations. The governors of several states have withheld signing the documents, appealing to FEMA to conform with the Act and with past practices. However, each governor eventually relented because of the need to obtain funds to commence restoration work. I personally have signed two such agreements under letter of protest.

My concerns are not that the Federal Government should bear the total costs of disaster recovery, but that the cost sharing be equitable to the Federal Government as well as the states. Because of FEMA regulations and policy decisions, even at 100 percent Federal funds for eligible projects, state and local governments are already paying a proportionate share of disaster recovery costs. For example, in January-February 1980, eight California counties were declared by the President to be major disaster areas. The Federal/State Agreement for that disaster did not contain the 75/25 provision. Local governments identified \$165.7 million in damaged public properties

-2-

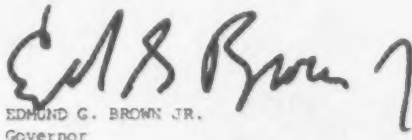
which required repair. To date (more than a year following the event), FEMA has approved \$101.7 million for repair of facilities deemed eligible under FEMA criteria. Thus, under the 100 percent formula, the state and local governments in the declared areas must pay 100 percent of the cost of the repairs not deemed eligible by FEMA, but which nevertheless must be made and which amount to 38.62 percent of the total damage repairs. Had the disaster been funded under the 75/25 cost sharing formula and under the same criteria, the state and local government would have been required to pay 54.1 percent.

For the Subcommittee's attention, I have attached a comparison of funding methods applied to the Southern California floods of 1980 (FEMA 615-DR).

I am sure you can understand the potential financial devastation that could be realized by local communities should a disaster occur where damages amount to \$30 million (not uncommon at today's construction costs) and FEMA determined eligible projects to be 61 percent of the total and then further reduced disaster assistance by imposing the cost sharing requirement of 25 percent. The end result would be a financial impact on local governments amounting to \$16.3 million. I find it difficult to believe such a requirement to be equitable or consistent with the Disaster Relief Act as intended by Congress. I suggest, therefore, that if such a requirement is to be upheld, it be applied to all costs of restoration of disaster damaged real properties, rather than those deemed eligible by FEMA, since these non-funded restorations must also be made.

I appreciate the opportunity to share my views with you. Should you have questions or require additional information, please contact Mr. Alex Cunningham, Director of the California Office of Emergency Services, at (916) 427-4201.

Sincerely;


EDMUND G. BROWN JR.
GOVERNOR

Attachment

Comparison of cost-share percentages under each of three methods of funding as based on the Southern California Floods of 1980 (FEMA 615-DR)

Baseline - Local Government Damage Assessment - \$165.7 million

	<u>Funding Levels</u>	<u>*Federal Share</u>	<u>(% of Total)</u>	<u>*Local Share</u>	<u>(% of Total)</u>
1)	100% of costs of projects <u>deemed eligible</u> by FEMA	101.7	(61.38)	64	(38.62)
2)	75%/25% Formula applied to projects <u>deemed eligible</u> by FEMA	76.2	(45.9)	89.5	(54.1)
3)	75%/25% Formula applied to all costs associated with restoration of damaged facilities	124.38	(75.00)	41.43	(25.00)

*Dollars in millions



COMMONWEALTH OF KENTUCKY
DEPARTMENT OF MILITARY AFFAIRS
DIVISION OF DISASTER AND EMERGENCY SERVICES
FRANKFORT
40601



13 April 1982

Mr. Stevens E. Swain
Professional Staff Member
Committee on Environment
and Public Works
4204 Dirksen Senate Office Building
Washington, D. C. 20510

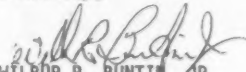
Dear Mr. Swain:

My staff and I have carefully reviewed S. 2250. Our comments on some of the proposals to change PL 93-288 are enclosed.

I am most concerned with the way the question of commitment and cost-sharing have been treated. I do not believe the importance of these issues is reflected in S. 2250. In addition, I am disturbed by the addition of commitment requirements to emergency declarations and the inclusion of both cost-sharing and commitment.

Thanks for your help and please call if you have questions or if I can be of assistance.

Sincerely,


WILBUR R. BUNTIN, JR.
Executive Director

Comment on S.2250

1. S.2250 includes a number of proposed changes to Public Law 93-288. These proposals address separate issues (though all are related to PL 93-288) of various levels of importance. Because of the diversity of the changes proposed and the significance of this disaster legislation, it would be more appropriate and effective to submit entirely new legislation in anticipation of subsequent repeal of PL 93-288. Such a step would prevent fragmentation of disaster assistance programs (which was not avoided in the many amendments to the Civil Defense Act of 1950) and should prevent development of new problems and controversy in disaster assistance programs. Further, S.2250 fails to resolve many issues that have arisen from implementation of PL 93-288. It is pointless to change the Act without resolving some, if not most, of these issues.

2. It is interesting to note that S.2250 would make 75-25 cost sharing a point of law and would allow no exceptions (other than through a questionable loan program for certain cases). The Federal Emergency Management Agency initially implemented 75-25 cost sharing in an effort to deal with the state and local commitment issue. This step was taken in light of previous, unsuccessful attempts to manage commitment. S.2250 incorporates language requiring an unchanged (in major disasters) state and local commitment and adds fixed ratio cost sharing. This "double jeopardy" requirement is particularly unfair and unnecessary. It penalizes applicants for FEMA failure to manage commitment. It is also apparent that this rigid cost sharing denies the commonly recognized fact that various disasters affect various communities in different ways. If cost sharing is essential, it should include ample flexibility to deal in a realistic way with diverse disasters and communities.

3. S.2250 retains the language of PL 93-288 on commitment for major disaster declarations. In addition, this language is added for emergency declarations. No justification for this change in regard to emergency declarations is provided. S.2250 indicates that emergency declarations would be used only when critical actions are necessary to save lives and protect property. It is unlikely such circumstances in any community will allow time to deal with this administrative commitment requirement. In general, it appears that both cost-sharing and commitment have been tossed around very lightly and capriciously without regard to their effects on state and local governments.

4. S.2250 fails to address in any significant way the controversies that have arisen previously on the topic of state and local commitment. The Federal Emergency Management Agency has not been able to specify satisfactorily what comprises adequate commitment and has generally been unable to administer this requirement satisfactorily. The states are asked in S.2250 to continue their tolerance of this farcial administration by FEMA while, at the same time, accepting fixed-ratio cost sharing. This is an entirely unrealistic proposition. Further, S.2250 does not address other costs to state and local governments that either should be accepted as commitment or deemed eligible for reimbursement.

5. S.2250 includes proposals to raise the limit of federal grants for improvement of state disaster plans. The new limit is strongly supported. This step would double the previous match and would permit the states to expand significantly upon their activities in emergency planning. It is certain to produce excellent results.

6. S.2250 includes provisions for increased reimbursement for the administrative costs of the Individual and Family Grant Program. As presented, this proposal is meaningless. The terms and conditions stated are exceptionally vague and offer no assurances of reasonable implementation that would permit additional payment to the states. Unless current time limits in this program are changed, this proposal means nothing.

7. S.2250 incorporates new language regarding recovery of funds and requirements for audits and investigations. These changes are appropriate. However, it is interesting to note that this proposal would permit legal action against parties responsible for emergencies or natural disasters, yet another portion of the proposal would allow major disaster declarations only after natural catastrophes, for which no liable parties are likely to be identified.

8. S.2250 would permit discrimination in disaster programs on the basis of economic status. This apparently is an attempt to make disaster assistance contingent upon both need and individual financial capabilities. Although we do not strongly object to this change, the potential effects of this change merit serious consideration. In effect, this change will convert PL 93-288 individual assistance programs into welfare programs. Such a change is significant and should be properly evaluated and fully understood before it is made.

9. The provisions of S.2250 would allow state assumption of the disaster temporary housing program, which has long been sought by the Federal Emergency Management Agency (with some success in some states). It is extraordinary that S.2250 would authorize reimbursement of "up to" 100% for state run housing

missions, when the state should be assured of full reimbursement for undertaking what is generally recognized as a federal responsibility. In addition, it seems foolhardy for the Federal Emergency Management Agency to encourage the state to undertake this federal mission without providing some tangible incentive. Certainly, the states are interested in assuring that temporary housing for disaster victims is provided as effectively as possible. However, it is unrealistic to expect this interest to translate into unlimited willingness to undertake the mission. Until FEMA establishes tangible and realistic incentives for state assumption, this will be a controversial and frustrating issue.

10. S.2250 would replace the "advance of funds" provisions of PL 93-288 with a loan program. This change is clearly not in the interest of communities stricken by truly catastrophic disasters. While this proposal can be accepted for most disasters, it is apparent that such a restriction should be modified to provide flexibility to deal with other disasters. Further, if such provisions are enacted, provisions should be set to require prompt and timely federal audit of state and local disaster claims. It would be grossly unfair for applicants to pay interest charges while awaiting federal audits that are scheduled without regard to applicant needs or convenience.

11. One of the unfortunate casualties of S.2250 is flexible funding which was previously available under Section 402(f) of PL 93-288. Under the Act flexible funding was established at 90% of estimated restoration costs. This is now to be replaced by 67% funding. It is unfortunate that S.2250 would eliminate this highly desirable option from those available to disaster stricken communities.

12. In summary, S.2250 proposes extensive changes in the character of PL 93-288. It would establish in law the adversarial attitude that has been established administratively by the Federal Emergency Management Agency. This would be most unfortunate since such legislation should assist communities stricken by disasters; not cause additional problems or difficulties.

It appears that many of the proposals in S.2250 are included only to accommodate the desires of the Federal Emergency Management Agency. Some of these proposals ignore legitimate questions raised by the states. It is inappropriate that such changes should be adopted without careful and fair evaluation of other opinions and alternatives and without the open participation of all concerned parties.

It is essential that S.2250 be carefully reviewed. The issues addressed must be given much additional study. No action should be taken until the issues at hand are studied and discussed by all concerned.

WRP/bjs



STATE OF WISCONSIN

DIVISION OF EMERGENCY GOVERNMENT

Lee Sherman Dreyfus
Governor

April 20, 1982

4802 SHEBOYGAN AVENUE
P. O. BOX 7865
MADISON, WISCONSIN 53707-7865
(608) 266-3232

Senator Frank Murkowski, Chairman
Senate Subcommittee on Regional & Community Development
4204 Dirksen Senate Office Building
Washington, D. C. 20510

ATTENTION: Steve Swain

Dear Senator Murkowski:

SUBJECT: STATE OF WISCONSIN'S COMMENTS ON SENATE BILL 2250

This office has reviewed Senate Bill 2250, a bill to amend the Disaster Relief Act of 1974, and we comment as follows.

1. In Title II (Authorizing Maintenance Grant) Section 201d. We agree that the federal share of funding be raised to \$50,000 from the present \$25,000. We also suggest that language be incorporated into this section signalling that it is Congress' intent to continue this funding beyond 1985, as this is a key element in the states ability to continue the update and maintenance of plans to cope with natural disasters.
2. We note there is a proposal to provide for more than the present 3% of the federal share of the Individual and Family Grant Program for state administrative costs. The proposal is nebulous and unclear in what is required in terms of program management and criteria. Unless definitive and clear parameters of performance are specified we feel this is not a meaningful step forward.
3. This state would feel obligated to insist that all actual costs, and not just contributions, not to exceed 100 per centum of the costs of state or local governments be provided for the purposes of providing temporary housing. The provision of temporary housing in a sizable disaster requires a significant expansion of staff by a state who undertakes this mission. This must be recognized by the federal government or most states will not undertake a mission which many feel is more properly a federal responsibility.
4. We are disturbed by the evident intent in this amendment to eliminate the option to request an advance of funds for the state share of the Individual and Family Grant Program. This is, in our judgement, short sighted and in this period of declining federal revenue assistance to states may very well be a determining factor in a states decision not to request Individual and Family Grant Program assistance, although the need may exist in a specific disaster situation.

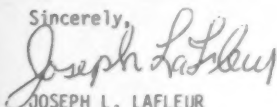
Senator Murkowski
April 20, 1982
Page 2

5. We disagree with the intent to replace the advance of funds with a loan program. This could be burdensome and costly to an applicant unless the administrative process including audits is measurably improved and expedited. (There should not be duplicate audits.) Either the federal government or the state, but not both should conduct program and project audits.
6. This state is not in favor of amending the language in this act to restrict the long range response and recovery provisions of the act essentially to natural catastrophes. Given our experience during the Fort McCoy Cuban Refugee Operation we are not certain of the federal willingness or ability to provide required assistance to some state and local problems caused by federal government policy decisions. In addition, a state or local government may be confronted with a severe manmade disaster, e.g., a nuclear power plant accident or a severe hazardous materials accident, affecting a large segment of a states population and response capability. The proposed amendments to the act bring into serious question whether state and local government would receive any assistance, regardless of demonstrated need in these instances.
7. We are not satisfied with the decision to legislate into law a 75/25 cost sharing for public assistance, what the Federal Emergency Management Agency (FEMA) arbitrarily mandated in an effort to insure a state commitment. At the same time, the commitment section is left as is with no clarification of what is or is not a reasonable commitment. Given FEMA's past performance in what was euphemistically described in 1980 as negotiating commitments with each state, we are not overjoyed with the prospect of attempting to satisfy a commitment requirement in the future without clear, measurable and specified guidelines.
8. It appears that a serious error may be made by the reduction of the flexible funding provided from the previous 90% to 67%. This hits at the very heart of the disaster mitigation program being emphasized by FEMA and the states. This reduction can halt or slow in some cases initiatives to permanently remove a recurring disaster problem.
9. It seems to this office that most of the changes offered in this bill reflect the desires of FEMA. Many of the proposals do not deal with valid state concerns and with the General Accounting Office's report on FEMA's administration of Public Law 93-288. We agree that Public Law 93-288 must be reviewed and modified. We think not enough consideration has been given to these concerns in this bill. We suggest that more state and local government input be secured for the committee before the act is finalized. If not, you may have a bill that will have to be drastically modified to cope with the attendant problems of the first large disaster which occurs in the United States subsequent to the adoption of this modified act.

Senator Murkowski
April 20, 1982
Page 3

The State of Wisconsin views Public Law 93-288 as an insurance policy. Just like other insurance policies, we expect to pay fair premiums and to have a reasonable deductible clause in this policy. This state makes the case that state and local governments and their citizens have paid a more than fair premium over the years in our federal taxes. We also maintain that a sizable commitment has already been made by paying these taxes. Therefore, when a serious disaster occurs the States and their citizens should expect to receive necessary assistance with a minimum of bureaucratic delays and programmatic red tape. This is not an unreasonable expectation. Surely our states and citizens should expect and be entitled to the same consideration that is given to foreign governments with our many assistance programs. Our view is that as with any insurance policy, it should be available when needed in a serious situation. If this test is not met, it ceases to be a viable assistance option for our citizens.

Sincerely,



JOSEPH L. LAFLEUR
Administrator

JLL:rkg

cc Wilbur Buntin, Kentucky Disaster and Emergency Services
Robert Wilkerson, Director, Florida Emergency Preparedness
State Emergency Services Directors in Region V



Lee Sherman Dreyfus
Governor

STATE OF WISCONSIN
DIVISION OF EMERGENCY GOVERNMENT

4802 SHEBOYGAN AVENUE
P. O. BOX 7865
MADISON, WISCONSIN 53707-7865
(608) 266-3232

May 7, 1982

The Honorable Frank H. Murkowski
United States Senate
2104 Dirksen Building
Washington, D. C. 20510

Attention: Steve Swain

Dear Senator Murkowski:

As you are aware, the National Emergency Management Association (NEMA) is very concerned about proposed changes to Public Law 93-288 which might be made by S. 2250. We hope that the dialogue we are having on making constructive changes which are beneficial to the citizens affected will continue until a workable product is produced. The law must be more than convenient for the government agencies involved and be of the fairest and greatest assistance to the people hurt by a disaster.

The intergovernmental affairs committee of NEMA has made the following report to the full NEMA membership and the report has been accepted. Concerning S. 2250, the following comments are forwarded on behalf of all states as the report was unanimously accepted; please enter these comments into the record and take them under advisement for changes in the bill.

1. The wording concerning the use of the word "commitment" is confusing. The States have always paid or made a commitment of funds in a disaster declaration. The new 75/25 language clearly establishes another (new) commitment. It can't be both ways as it then presents a double whammy to state and local governments.
2. The provision of an 18-month limit on temporary housing should allow for wording to create an extension process granted by FEMA in unusual situations. There are many such examples of 18-months being too short a time period for disaster victims to obtain other housing. We can't just divest ourselves of those stricken in disasters.
3. Administrative cost for operation of the Individual and Family Grant Program and Public Assistance portion of a disaster declaration should be 100 percent reimbursed. FEMA indicates they would not oppose this provision. The current three percent of costs is totally unworkable.

Page 2

Honorable Frank H. Murkowski

May 7, 1982

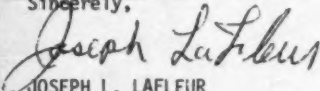
4. Restoration of Public Property should be reimbursed (75%) so as to meet current codes, standards, and regulations. Restoration reimbursement of value prior to destruction (75%) is not only poor public policy but would present untenable taxing and borrowing costs to citizens who are affected already by the disaster. This proposed change will break financially the local citizen--it represents another double whammy.
5. The current \$25,000 state/federal matched Disaster Improvement Grant should be retained as a concept and planning tool. The value obtained from this program is excellent. NEMA supports FEMA's proposal of being able to match up to \$50,000. A change is needed as inflation has made \$25,000 no longer a workable figure.
6. Man-made private and public structures (dams, buildings, etc.) damaged by events such as explosions, fires and other events should be included within the response and recovery act as proposed in S. 2250.

The National Emergency Management Association (NEMA) believes very strongly that incorporation of these suggested changes and enhancements will provide a significant, necessary level of support to assist our citizens in view of the fact some persons are trying to now legalize the use of 75/25 cost sharing for commitment. NEMA believes and can and has shown to the Congress proof of significant state costs that have always been committed before someone ever dreamed up 75/25. Seventy-five/twenty-five cost sharing now in reality makes the state share at least 50 percent. Yet, the federal tax dollars we have always paid are not able to be reimbursed at our time of greatest need. The erosion of 93-288 as proposed, short of our suggested improvements is like having the insurance company you paid into for years fail. We suggest this is not the position the Congress wants to leave its citizens in.

We hope a reasonable solution can soon be reached.

Please accept these comments I have been charged to deliver on behalf of NEMA.

Sincerely,



JOSEPH L. LAFLEUR

Administrator

Wisconsin Division of Emergency Government

JLL:rab

THAD COCHRAN
MISSISSIPPI

COMMITTEE ON
AGRICULTURE, NUTRITION,
AND FORESTRY
COMMITTEE ON
APPROPRIATIONS

United States Senate

WASHINGTON, D.C. 20510

April 22, 1982

The Honorable Frank H. Murkowski
Chairman
Subcommittee on Regional
and Community Development
Committee on Environment
and Public Works
Room 4204 Dirksen Building

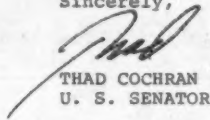
Dear Mr. Chairman:

I have enclosed a copy of a letter I received
from Mayor Dale Danks of Jackson, Mississippi regarding
S. 2250.

I would appreciate your including this letter in
the record of the April 20, hearing on S. 2250. As you
know, the City of Jackson suffered severe damage and
property loss during the Easter Flood of 1979, and as
Mayor Danks points out in his letter, the financial effects
are still being felt.

Your Subcommittee's consideration of the enclosed
correspondence is appreciated.

Sincerely,



THAD COCHRAN
U. S. SENATOR

TC/jl

1 4 2 3 0



Office of the Mayor • Dale Danks, Jr., Mayor

219 S. President Street • P.O. Box 17 • Jackson, Mississippi 39205 • (601)960-1000

APR 15 5 APR 17 '82

Honorable Thad Cochran
United States Senator
205 Russell Building
Washington, D.C. 20510

Dear Senator Cochran:

This letter is to express my concern over the proposed legislation contained in Senate Bill 2250, which amends the Disaster Relief Act of 1974 and limits federal assistance to not more than 75% of the total cost of damage to public property, following a Presidential Declared Disaster. A local government that has been subjected to a major disaster that reduces their tax base and raises expenditures for disaster response and recovery operation, can ill afford the additional expenditures to provide at least 25% of the cost to repair or rebuild public property.

The City of Jackson would have faced an almost unbearable financial crisis following the 1979 Easter Flood, if it had been required to provide the 25% of the total cost for disaster response and recovery efforts. The effects of this flood on the financial stability of the City of Jackson are still being felt. Other local government's have encountered the same problems. The Disaster Relief Act of 1974 did much to improve the capabilities of local governments to survive major disasters. To reduce the amount of support of disaster response and recovery efforts by the Federal Government during a period of economic recession would cause further roadblocks in local government's ability to withstand the effects of a major disaster.

I strongly urge that you exert your influence and vote to defeat this proposed legislation, at least until economic conditions improve to a point that local governments are better able to shoulder this added financial burden.

Very truly yours,

Dale Danks, Jr., Mayor
City of Jackson, Mississippi

DD, JR/r1

Nilsen H. Cochran
Commissioner

Dale Danks, Jr.
Mayor

Luther L. Roan, Jr.
Commissioner



American Red Cross

National Headquarters
Washington, D.C. 20006

April 21, 1982

Dear Senator Murkowski:

Mr. George M. Elsey, President, American Red Cross, has asked me to reply to your invitation to testify on S.2250, the "Disaster Relief Act Amendments of 1982". Although I was unable to appear personally at your subcommittee's hearings on April 20, 1982, we would like to provide the following written statement of American Red Cross concerns about the proposed legislation for inclusion in the records of the hearings and consideration by your subcommittee members.

On July 21, 1981, I represented the Red Cross before your subcommittee during oversight and reauthorization hearings related to the Disaster Relief Act of 1974. Speaking on behalf of the Red Cross, I expressed our concerns about some of the changes in the Act which were then in the preliminary discussion stages. Now that those proposed changes are included in S.2250, we would like to reiterate our concerns as to how those changes will impact on provision of assistance to disaster victims and to comment on other amendments which were not included in our previous testimony.

First, let us assure the subcommittee that the American Red Cross fully intends to continue its program of assistance to disaster victims. This program was initiated over 100 years ago and is mandated in the organization's Congressional Charter which formalized the Red Cross role in disaster relief in June, 1900. The role was affirmed in the Act of Congress of January 5, 1905, (36.U.S.C. Section 1 and following) entitled, "An Act to Incorporate the American National Red Cross". This role was reaffirmed in the Disaster Relief Act of 1974 and is included again in the amended act you are now considering. The Red Cross provides emergency assistance to disaster victims, both through mass care for groups of victims or evacuees and individualized emergency assistance provided on a casework basis. These services help disaster victims resume normal living as quickly as possible or tide them over until government funded disaster assistance programs are in place. Red Cross works closely with federal and state disaster programs to help families obtain needed benefits. When such programs are inadequate or unavailable, Red Cross may provide additional assistance with essential recovery needs. During the 1981-82 fiscal year, the Red Cross responded to more than 43,000 disaster situations of all sizes. As the subcommittee knows, the Red Cross response does not require a Presidential Declaration of an emergency or major disaster but is triggered by the threat or occurrence of a disaster and resultant human needs.

However, because the financial resources of the Red Cross and other voluntary agencies with disaster-related programs are dependent upon public donations, those resources are limited. This gives rise to our concerns that any move to decrease assistance to disaster victims available from government funded programs represents a potential additional burden on private agencies whose financial capabilities are already severely strained. For example, we have already seen how increases in the interest rates charged for Small Business administration disaster loans have made such loans unobtainable for numbers of disaster

- 2 -

victims. This has resulted in many of these families turning to the Individual Family Grant Program and the Red Cross for help that might have been covered by an SBA loan and ultimately repaid to the federal government. Although your hearing is not concerned with the SBA program, we do urge that the members support other legislation that has been introduced into the Congress which would lower the disaster loan interest rates.

As to the specifics of S.2250, we applaud the new section on emergency declarations, believing it spells out in sufficient detail the circumstances under which such a declaration is made and its purposes. However, in connection with Section 502 (b) in which the text says the President may "coordinate all federal agencies and voluntary relief of disaster assistance organizations providing emergency assistance", we would urge this section use the language contained in "Coordinating Officers", where Section 302 says, "coordinate the administration of relief, including activities of...the American Red Cross... and other relief or disaster assistance organizations which agree to operate under his advice or direction", or something comparable. While the Red Cross usually coordinates its activities with those of federal agencies, we believe that there could be circumstances where such coordination could be disruptive of Red Cross operations established prior to a declaration and, in our view, not be in the best interests of the disaster victims involved. We urge that the language of Section 302 (b) apply also to Section 402 (b) under "Federal Assistance", for the same reasons.

We support the new subsection 315 (d) which says that disaster assistance to individuals and families shall not be considered as income or a resource in determining eligibility for benefits in federally funded programs involving the so-called "means test". The lack of clarity concerning this in the past has resulted in many instances whereby disaster victims were unfairly denied needed help because the replacement of disaster-caused losses was considered income, per se.

We also support the new section that offer states an incentive to complete the Individual Family Grant Program as expeditiously as possible by providing federal funding of a larger portion of the administrative costs when such completion is expeditious. One of the problems that has beset the IFG Program since its inception has been slow implementation. This incentive will help accelerate the progress that is being made towards making this program increasingly timely.

One amendment that causes us great concern is that calling for reduction of disaster unemployment insurance from a full year to twenty-six weeks, because the nature of disaster damage will frequently preclude resumption of normal commercial or other operations in which a disaster victim is employed for much longer than six months. If the unemployment insurance period is cut in half, it could mean that many victims might have to seek public assistance to subsist until their jobs were restored or cause them to relocate to other areas with resultant disruption of family life. In circumstances where a home was repaired or rebuilt with aid from a federally funded program and the Red Cross, and the victim was also unemployed for a long period of time as the result of the disaster, the need to leave the area to find work could negate the benefit of all the other expenditures made by the relief programs involved. We urge restoration of the unemployment insurance coverage to its previous full year period.

- 3 -

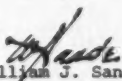
In addition, S.2250 substantially alters Section 404 (a) of the Disaster Relief Act of 1974 by eliminating the presently provided one year's rent-free temporary housing, and substitutes a program based on a combination of fair market value of the housing provided and the financial ability of the occupant to pay all or part of the cost of the temporary housing involved. The Red Cross agrees that the existing program has provided rent-free housing to many disaster victims who could have paid all or part of the rentals involved, but we want to re-emphasize the importance of the words "to take into consideration the financial ability of the occupant". We urge this subcommittee include in the amendment a requirement that an adequate system be devised to determine the ability of the occupant to pay and a system that could be integrated with other disaster assistance programs to which the disaster victim may have applied. It should be required that the system be closely monitored by FEMA to assure a strong effort to see to it that disaster victims are fairly treated and that all other financial obligations a family may have are truly considered.

We have one other concern about proposed changes. Previously, the law provided for up to one hundred percent funding for the restoration of damaged state, local or non-profit agency facilities. S.2250 proposes that the limit be dropped to seventy-five percent. We know that a number of state and local governments have expressed concern about this change. Non-profit agencies whose facilities are destroyed or damaged by a natural disaster would be equally concerned because their resources for capital expenditures are quite limited or non-existent. To be unable to restore a damaged educational, medical, emergency or other facility to its previous condition because of a lack of funds for the twenty-five percent share of the reconstruction costs could mean that after a disaster, vital, private voluntary sector services to the lower income, elderly or handicapped groups could literally disappear.

In our view, such efforts to reduce the federal share of a disaster-caused reconstruction expenditure is truly penny-wise and pound-foolish, especially at a time when the private sector is being urged to assume greater responsibility for social programs.

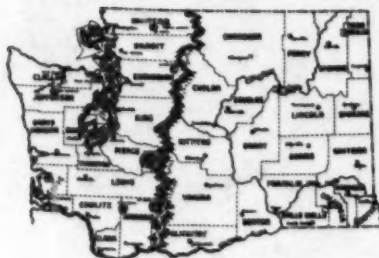
We hope that the subcommittee will give consideration to these Red Cross concerns as it looks at the amendments contained in S.2250 so that the victims of disasters are not subject to additional hardship at a time when they are already suffering. If the subcommittee or its staff has any questions about our recommendations, or other matters related to disaster relief, we will be more than happy to answer them.

Sincerely,


William J. Sande
Vice President

Honorable Frank H. Murkowski
Chairman, Subcommittee on Regional
and Community Development
Committee on Environment and Public Works
United States Senate
Dirksen Building - Room 2104
The Capitol
Washington, DC 20510

WASHINGTON STATE ASSOCIATION OF COUNTY ENGINEERS



April 16, 1982

Mr. Steve Swain
Professional Staff
Senate Subcommittee on Regional &
Community Development
4204 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Swain:

RE: S. 2250 A BILL TO AMEND THE DISASTER RELIEF ACT OF 1974

On behalf of the Washington State Association of County Engineer (W.S.A.C.E.) and as Chairman of the Emergency Management Committee for W.S.A.C.E., the following is submitted as a major concern regarding the proposed Legislation.

The Legislation provides that political subdivisions would be committed to a 75%/25% matching share plus the current ineligible costs. Our concern is with the current ineligible costs which bring the actual matching share closer to 50%. The proposed 75%/25% matching share would be reasonable and acceptable when applied to the total actual costs as it is with contracted work - please give consideration to total actual costs for work preformed by the local agencies.

Also, please give consideration to treating the 25% as a maximum for those agencies who can in no way scope with an expense of 25%. A guideline for this could be that should the 25% represent more than a percentage (say 15-25%) of their current expense budget then that agency would be eligible for less than 25% match.

Thank you for considering these comments.

Sincerely,

Vern E. Wagar

Vern E. Wagar, P.E.
Public Works Director
County Engineer
Chairman,
Emergency Management Committee

VEW/kam